S. HRG. 100-535

YAKIMA RIVER BASIN WATER ENHANCEMENT PROJECT

HEARING

BEFORE THE

SUBCOMMITTEE ON WATER AND POWER

OF THE

COMMITTEE ON ENERGY AND NATURAL RESOURCES UNITED STATES SENATE

ONE HUNDREDTH CONGRESS

FIRST SESSION

ON

S. 1435

TO AUTHORIZE CERTAIN ELEMENTS OF THE YAKIMA RIVER BASIN WATER ENHANCEMENT PROJECT, AND FOR OTHER PURPOSES

YAKIMA, WA, OCTOBER 19, 1987

Printed for the use of the
Committee on Energy and Natural Resources

U.S. GOVERNMENT PRINTING OFFICE

82-902 WASHINGTON : 1988

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YAKIMA RIVER BASIN WATER ENHANCEMENT PROJECT

MONDAY, OCTOBER 19, 1987

U.S. SENATE,
SUBCOMMITTEE ON WATER AND POWER,
COMMITTEE ON ENERGY AND NATURAL RESOURCES,
Yakima, WA.

The subcommittee met, pursuant to notice, at 10:45 a.m., in the Yakima Valley Visitors and Convention Center, Hon. Daniel J. Evans presiding.

OPENING STATEMENT OF HON. DANIEL J. EVANS, U.S. SENATOR FROM WASHINGTON

Senator EVANS. We're delighted to welcome everyone here.

I apologize for being a little late. We had a very fine breakfast meeting this morning in Tacoma, an international trade conference sponsored by the Puyallup Tribe, and it proved to be also a best-seller, with a very large group. It was a quick trip from there to Yakima.

Mr. MORRISON. Did they serve water at this meeting in Tacoma? [Laughter.]

Senator EVANS. I flew over many of the reservoirs between there and here, and we're right down to the drain hole, I think, in most of them. There isn't much water left.

In our view from Washington, D.C., as we sweltered through the summer, and as we were pelted by regular thunderstorms with two or three inches of rain per afternoon, the Northwest was always covered by a big sun on the morning weather. I don't know if it's ever going to rain. But just wait. We'll all get to the point about next February when we wonder if the rains will ever stop. Hopefully.

Let me, in a formal way, open the meeting with a statement setting the stage.

We do have a large number of witnesses. We hope that we can get all of your information in a reasonable amount of time. As I will point out a little later, we'll keep the record open, and the important thing is to have a full written record from which we can draw appropriate conclusions and share information gathered here with our colleagues in both the House and the Senate.

This is a hearing of the Water and Power Subcommittee of the U.S. Senate Energy and Natural Resources Committee.

I am presiding today on behalf of Senator Bill Bradley from New Jersey, who is Chairman of the Subcommittee. I am delighted that

Representative Morrison, your own Representative here, will join me in the hearing.

The purpose of the hearing is to receive testimony on S. 1435, a bill to authorize certain elements of the Yakima River Basin Water Enhancement Project. Senator Adams and I introduced this bill on June 26 of this year. Representative Morrison introduced identical legislation in the House of Representatives.

In many respects, this legislation is similar to the legislation introduced by Representative Morrison and I last year. However, a few important components have been added. It is these new elements on which I would like to ask those who are testifying here today to focus. The primary addition would authorize the construction of new storage facilities at the Cabin Creek reservoir site. Additionally, the bill would require that the Secretary of the Interior develop a water conservation plan prior to proceeding with construction of the Cabin Creek facilities. The bill would also authorize the construction of a pipeline connecting Keechelus Lake with Kachess Lake, as well as several small projects to increase the efficiency of existing irrigation facilities within the Bureau of Reclamation's Yakima Project in Washington State.

Specifically, this bill would authorize a number of projects to increase the efficiency of the Yakima Enhancement Project, as well as providing some additional storage capacity to relieve the water shortage situation here in the Valley. The bill authorizes the construction of additional storage at Cabin Creek. This project could provide up to 150,000 acre-feet of new water in the Yakima Basin.

As did last year's bill, this legislation allows for the modification of existing radial gates at Cle Elum Dam, thereby increasing the storage capacity of that reservoir by 15,000 acre-feet. The bill authorizes the construction of a pipeline between Keechelus Lake and Kachess Lake, helping to balance storage between these two reservoirs. Building the pipeline will facilitate the transfer of water from Keechelus Lake to Kachess Lake to take greater advantage of the storage capacity of the Keechelus reservoir.

The bill authorizes the construction of a reregulating reservoir within the Roza irrigation system, facilities to automate and improve canal operations of the Sunnyside Division to reduce irrigation diversions, and system improvements to save water on the Wapato Irrigation Project. These facilities will reduce the average annual diversions 72,000 acre-feet of water. Finally, the bill authorizes the subordination of hydroelectric poser generation at the federal Roza and Chandler powerplants. Subordination would result in the suspension of power generation during periods of low river flows to increase instream flows for anadromous fish resources.

As a result of the development of its water resources, the Yakima Basin has become one of the most productive agricultural areas in the U.S. In fact, from talking to some, I guess it's almost too productive this year. Yet chronic water shortages threaten the continued production of agricultural products in the Yakima Basin. There is no question that the river, over time, and inadvertently, has been over-appropriated for water use.

The Yakima River was once one of the most productive rivers in the country for anadromous fish as well. By 1982, however, as a result of blockage of migratory routes and dewatering of spawning

and rearing habitats, the Yakima River salmon and steelhead runs declined to a fraction of their historical numbers.

The bill will provide supplemental water to presently irrigated land. The bill will help to irrigate new lands on the Yakima Indian Reservation. Finally, the bill will provide water for increased in-stream flows for anadromous fish resources. It is the second phase of a longer term project to resolve the long-term problem of water shortages in the Yakima River Basin.

This legislation represents an interim step in the process of developing a physical solution to the water supply problems of the Yakima River Basin. Our first step was construction of fish passage facilities at existing irrigation facilities on the Yakima River. These facilities were authorized in 1984, and should be completed by 1989. The final step will include measures to conserve the use of water in the Basin and the construction of additional storage capacity. The selection of this facility should occur as soon as possible, provided that the Bureau of Reclamation, the State of Washington, the Yakima Indian Nation and others reach agreement on the site of the facility and the allocation of costs and benefits accruing from its construction.

It is important to note that this bill provides a significant advance in reaching a solution to the water supply situation in the Yakima River Valley. It is not a complete solution, however. The Valley needs to continue to work together to cooperatively agree on a course of action that will relieve the pressures of the over-allocated existing water supply. Unquestionably, the additional capacity provided by this bill is long over-due. There are many in the Yakima Valley who have been anticipating additional storage in the system since the 1940's.

The Yakima Enhancement Project is, I believe, an equitable sharing of costs between the Federal Government and non-federal beneficiaries of the project. The development of this project will assure the delivery of irrigation water for one of the Nation's most productive agricultural areas. It will help to restore an anadromous fishery resource of great importance to the Pacific Northwest and to the Nation.

I heartily endorse this project, and I appreciate the time and energy that everyone here today has given, and I expect, will continue to give, to the development of this legislation. I look forward to hearing from witnesses today as to how we might improve or modify the bill to make it a better one, and a better solution to the water problems of the Valley. Your testimony will be critical to help us reshape the bill prior to the full Committee's consideration of the bill.

And now for a few housekeeping matters. In the back of the room there is a sign-up sheet. Please sign, so that we can ensure that you will receive a copy of the hearing record when it is printed.

Also, each witness will be asked to fill out a witness address card to be given to the staff upon completion of your testimony, or at the end of the hearing. I suggest you pass it in at the end of your testimony so that staff can keep track of all of this better.

The hearing record will remain open for two weeks after today for those of you, or anyone else, who may wish to submit additional materials for the record.

Let me emphasize that it is the written record that is of greatest help to us, because we have to ensure that all that is done here today is transmitted to staff and to other members who will not have the privilege of listening, and they will have to be persuaded by what we send to them.

Written materials should be sent to the Subcommittee on Water and Power, Senate Committee on Energy and Natural Resources, Room SD 358, Washington, D.C. 20510. That address will be available at the back of the room, so you don't have to memorize it at this point.

Finally, the text of S. 1435 will appear in the record at the conclusion of my remarks. So when the record is completed, we will have the witness material, the questions and answers, the bill itself, and the opening remarks in one volume.

With that, it's with great pleasure that I introduce a long-time colleague, an outstanding Member of the House of Representatives, and your Representative from the Fourth District, Representative Sid Morrison.

[The text of S. 1435 follows:]

II

100TH CONGRESS
1ST SESSION

S. 1435

To authorize certain elements of the Yakima River Basin Water Enhancement Project, and for other purposes.

IN THE SENATE OF THE UNITED STATES

JUNE 26 (legislative day, JUNE 23), 1987

Mr. EVANS (for himself and Mr. ADAMS) introduced the following bill; which was read twice and referred to the Committee on Energy and Natural Resources

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A BILL

To authorize certain elements of the Yakima River Basin Water Enhancement Project, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. (a) That for purposes of protection and enhancement of fish and wildlife, irrigation, and water conservation, the Secretary of the Interior (hereafter, the Secretary) acting pursuant to Federal reclamation law (Act of June 17, 1902, 32 Stat. 388, and Acts amendatory thereof and supplementary thereto) and consistent with the Pacific Northwest Electric Power Planning and Conservation Act

(94 Stat. 2697) is authorized to design, construct, operate, and maintain the following facilities—

(1) modification of existing radial gates at Cle Elum Dam; a Keechelus Lake to Kachess Lake pipeline; a reregulating reservoir to increase water-use efficiency of the Roza Division; facilities to automate and otherwise improve canal operations of the Sunnyside Division; facilities to automate the headgate, wasteways, and trashrack of the Chandler Power Canal to maintain operating controls for the Kennewick Irrigation District;

(2) facilities to automate and otherwise improve canal operations of the Wapato Irrigation Project which is operated by the Bureau of Indian Affairs; and

(3) storage facilities at the Cabin Creek site pending the completion of the preliminary analysis and submission of a report to Congress by the Bureau of Reclamation and a Secretarial determination of economic and technical justification and compliance with applicable laws: *Provided*, That, in addition to and consistent with the purposes authorized in section 1(a) of this Act, the Cabin Creek storage facilities are authorized to be operated for flood control purposes, and that reimbursement of such costs allocable to flood control

shall be governed by provisions of law applicable to projects constructed by the Secretary of the Army.

(b) The Secretary shall, in cooperation with appropriate Federal, State, and local entities, develop a plan for the incorporation of prudent and responsible water conservation measures by recipients of irrigation water, pursuant to a contract with the Secretary, from the Yakima Enhancement Project, and shall submit such plan along with the Secretary's recommendations to Congress: *Provided*, That no funds shall be appropriated for land acquisition associated with the construction of the Cabin Creek facilities authorized by section 1(a)(3) of this Act until said report has been transmitted to Congress.

(c) The Secretary is authorized to accept funds from any entity, public or private, to design, construct, operate, and maintain facilities authorized by this Act.

SEC. 2. The facilities authorized by this Act and fish passage facilities authorized by the Acts of August 17, 1984 (98 Stat. 1933) and August 22, 1984 (98 Stat. 1369) shall be considered features of the Yakima River Basin Water Enhancement Project (hereafter, Yakima Enhancement Project), and their operation and maintenance shall be integrated and coordinated with other features of the existing Yakima Project. As appropriate, the Secretary shall enter into agreements to provide for the operation and maintenance

of such facilities. The Secretary shall insure that such facilities are operated in a manner consistent with the treaty rights of the Yakima Indian Nation, Federal reclamation law, and water rights recognized pursuant to State law, including the valid contract rights of irrigation users.

SEC. 3. (a) The Roza reregulating reservoir shall become a feature of the Roza Division. Water savings resulting from construction and operation of the Roza reregulating reservoir shall be available for use as supplemental irrigation water for currently developed lands within the Roza Division.

(b) The facilities to automate and otherwise improve canal operations of the Wapato Irrigation Project shall become features of the Wapato Irrigation Project. Water savings resulting from construction and operation of such facilities shall be available for irrigation purposes and for the protection and enhancement of fish and wildlife within the boundaries of the Yakima Indian Reservation. Design, construction, operation and maintenance costs related to such facilities shall be reimbursable and returnable according to the provisions of the Leavitt Act (Act of July 1, 1932 (47 Stat. 564).

(c) The facilities to automate and otherwise improve canal operations of the Sunnyside Division shall become features of the Sunnyside Division. Water savings resulting from

construction and operation of such facilities shall be allocated to the protection and enhancement of fish and wildlife.

SEC. 4. The modified radial gates at Cle Elum Dam and the Keechelus Lake to Kachess Lake pipeline shall become a feature of the existing Yakima Project. The Secretary shall operate and maintain such facilities in accordance with the purposes of this Act.

SEC. 5. (a) The Secretary shall operate and maintain the existing Federal Chandler and Roza powerplants in a manner that provides priority for protection and enhancement of fish and wildlife.

(b) The Administrator of the Bonneville Power Administration (hereafter, the Administrator) shall make available power and energy from the Federal Columbia River Power System to the Secretary to meet contractual obligations entered into by the Secretary for the delivery of power and energy from the Chandler and Roza powerplants.

(c) Except as otherwise provided by this section, the Secretary shall offer to amend, without imposing any other requirement as a condition to such amendment, all existing contracts for the sale of power and energy from the Chandler and Roza powerplants to relieve any outstanding obligations for the repayment of construction costs for such powerplants allocated to irrigation.

SEC. 6. There is hereby authorized to be appropriated to the Secretary for planning, design, and construction of elements of the Yakima Enhancement Project authorized in Section 1(a)(1) of this Act, $37,300,000 (October 1986 prices), and $105,000,000 (October 1986 prices) for the construction of the facilities authorized in section 1(a)(3) of this Act, plus or minus such amounts as may be justified by reason of ordinary fluctuations of construction costs indexes applicable to the type of construction involved herein. There are also authorized to be appropriated to the Secretary such additional sums as may be required for the operation and maintenance of the three vertical feet enlargement of Cle Elum Lake and the Keechelus Lake to Kachess Lake pipeline, and that portion of the operation and maintenance cost of other facilities authorized by this Act determined by the Secretary to be a Federal responsibility, pursuant to the agreements specified in section 2 of this Act.

SEC. 7. The construction of facilities authorized by section 1(a)(1) and section 1(a)(3) of this Act shall be initiated only after non-Federal interests have entered into binding agreements with the Secretary to fund 35 per centum of the total construction cost of such facilities during such period of construction.

SEC. 8. (a) Design, construction, operation and maintenance costs of facilities authorized by this Act allocated to

fish and wildlife shall be reimbursable and returnable according to the provisions of the Federal Water Project Recreation Act (79 Stat. 213), as amended: *Provided*, That design, construction, operation and maintenance costs related to anadromous fish shall be nonreimbursable and nonreturnable.

(b) Design, construction, operation and maintenance costs of facilities authorized by this Act allocated to irrigation and which are determined by the Secretary to be an irrigation obligation shall be reimbursable and returnable according to the provisions of section 9(d) of the Reclamation Project Act of 1939 (53 Stat. 1187). The Secretary shall offer to amend existing irrigation repayment contracts, without imposing any other requirement as a condition to such amendment, to provide for repayment of the irrigation construction costs of facilities authorized by this Act over a period of not more than forty years exclusive of any development period authorized by law.

SEC. 9. If the State of Washington, the Yakima Indian Nation, or any other entity, public or private, prior to the providing of an appropriation of funds to the Secretary to construct the Yakima Enhancement Project, shares in the costs of or constructs any physical element of that project, the costs incurred by the State, the Yakima Indian Nation, or any other entity in the construction of such elements shall be credited to the total amount of any costs to be borne by the

State, the Yakima Indian Nation, or any other entity as contributions toward payment of the cost of the Yakima Enhancement Project; except that no such credit shall be given for any element constructed by the State, the Yakima Indian Nation, or any other entity unless the element has been approved by the Secretary prior to its construction. The Secretary shall grant such approval, when requested by the State or other entity, if the Secretary determines that the element proposed for construction would be an integral part of the Yakima Enhancement Project.

SEC. 10. (a) The Secretary, as part of the study authorized by the Act of December 28, 1979 (93 Stat. 1241), is directed to conduct a feasibility study of the following potential elements:

(1) Kittitas Valley irrigation system improvements;

(2) consolidation of the Selah-Moxee Irrigation District, Union Gap Irrigation District, Moxee Ditch Company, and Hubbard Ditch Company diversions from the Yakima River for delivery from the Roza Canal; and

(3) development of groundwater resources within the Roza Division for a supplemental irrigation water supply.

(b) There are hereby authorized to be appropriated to the Secretary for such feasibility study $500,000 (October 1986 prices): *Provided,* That the Secretary is authorized to accept funds from any entity, public or private, to assist in the financing of such feasibility study.

SEC. 11. Nothing in this Act shall be construed to—

(a) affect or modify any treaty or other right of the Yakima Indian Nation;

(b) authorize the appropriation or use of water by any Federal, State, or local agency, the Yakima Indian Nation, or any other entity or individual;

(c) affect the rights or jurisdictions of the United States, the States, the Yakima Indian Nation, or other entities over waters of any river or stream or over any ground water resource;

(d) alter, amend, repeal, interpret, modify, or be in conflict with my interstate compact made by the States;

(e) alter, establish, or affect the respective rights of States, the United States, the Yakima Indian Nation, or any person with respect to any water or water-related right; or

(f) alter, diminish, or abridge the rights and obligations of any Federal, State, or local agency, the

Yakima Indian Nation, or other entity, public or private.

STATEMENT OF HON. SID MORRISON, U.S. REPRESENTATIVE FROM WASHINGTON

Mr. MORRISON. Thank you, Senator. My comments will be brief, just to thank you for being here, for bringing this Senate Subcommittee hearing to Yakima, out to the area most impacted by the Yakima River Basin Enhancement program. And I want to thank you for your ongoing commitment, which is very significant if we're going to get anywhere.

I'm pleased that Senator Brock Adams has added his name to this bill. In fact, when he signed it, he said, "What are you getting me into? 'I think what we're getting him into is a good combination of projects that make up this early implementation package.

Going beyond the bill, Senator, I also want to thank you for what I look at as a new decision-making process that we have put together as we get closer and closer to the more difficult decisions to be reached on the enhancement of this river basin. It includes a combination of people from the State level, and maybe most importantly, a series of policy groups that have been meeting and facing really the most difficult decisions that are ahead of us, that tie in with not only this bill, but the steps as we move on toward that magic goal of additional reservoir capacity.

I think all of you in the room know that my dream is to have an adequate water supply in this Yakima River System. This year that dream has almost turned into a nightmare, and we have that potential in the future, as we have probably the lowest carry-over in a decade and a half or more, as we look at 1988. But the key is to get on with this issue, and early implementation.

And again, thank you for bringing this hearing out where the most affected people can testify.

Senator EVANS. Thank you for not only those words, but for the fact that you really have been the guiding light for all of us who don't pretend to know half as much about the intricacies and details and interrelationships of agricultural water and this valley. You certainly know it a lot better than the rest of us, and have been giving great guidance to us.

We now have a series of panels—seven of them as a matter of fact. I should announce at this time that inadvertently the Northwest Power Planning Council was left off the list. We obviously are interested in having their testimony, and I have asked them to appear just after panel number two, the Representatives of the Washington State Legislature.

As we start, let me say that we have many witnesses—about 20. We do have a relatively limited amount of time. It is important to hear from you, and to ask the questions that are necessary, and to get the information on the record. We do hope that those of you who have written testimony will be able to summarize that testimony, and the important parts, keeping in mind that our emphasis today is really focused on a bill which is a skeleton—and I think that's the appropriate way to put it—a skeleton on which we hope testimony today will help put some flesh and skin, and help to round it out.

With that, I'm delighted to welcome on behalf of my colleague in the Senate, Brock Adams, a statement presented on his behalf by a member of his staff, Bruce Need.

Bruce, are you here? There you are.

Mr. NEED. Yes, Mr. Chairman, my name is Bruce Need, and I am a legislative assistant——

Senator EVANS. Maybe you'd like to—I hope that that's the microphone for the loudspeaker system. You may have to draw it closer to you.

Mr. NEED. All right. Yes.

My name is Bruce Need, and I am a legislative assistant for Senator Brock Adams. Senator Adams has asked me to appear as his representative today. He wants to assure everybody that he has been following the progress of this legislation very closely for quite some time, and is very aware of what he has gotten himself into as a co-sponsor of this bill.

If there is no objection, I'd like to read a brief statement by Senator Adams into the record.

Senator EVANS. Surely. Proceed.

STATEMENT OF HON. BROCK ADAMS, U.S. SENATOR FROM WASHINGTON AS PRESENTED BY BRUCE NEED

Mr. NEED. Mr. Chairman, thank you for the opportunity to participate in this field hearing. Although my other duties prevent me from being here today, I do want to express my firm commitment to work with the people that live in the Yakima River Basin, and with my Congressional colleagues, Senator Evans and Congressman Morrison, to move the Yakima River Basin Water Enhancement Project forward as quickly as possible.

The Yakima Enhancement Project has existed as a proposal in one form or another for a long time. As such, it represents a recognition that there really isn't enough water in this basin to go around. This is particularly true in a dry year like this one. I know that farmers and irrigators in the upper reaches of the Basin have been without water for some time now. I know of the hardships these people are facing, and my heart goes out to them.

The adverse effects of these water shortages are complicated by the fact that different groups in the Basin need water for different things. The Yakima Indian Nation needs water in the form of instream flows to preserve and upgrade their traditional fisheries. Farmers who have helped the desert bloom into a bountiful source of fruits and vegetables need water for irrigation. Competing uses, competing legal claims and water rights, and cultural differences have contributed to making the search for a long-term solution to the water shortage in the Basin a long and difficult one.

Fortunately, through the leadership of many of the people who will testify before this committee today, as well as the leadership of my Congressional colleagues Senator Evans and Congressman Morrison, cooperation has prevailed, and progress has been made towards our long sought goal.

The legislation to be considered today is the second phase of the overall enhancement project. It authorizes modernization of existing irrigation facilities, both on the Yakima Indian Reservation

and elsewhere in the Basin, in order to enhance water conservation and promote efficient use of existing resources.

It also authorizes construction of storage facilities at Cabin Creek, contingent on economic and technical feasibility studies by the Bureau of Reclamation. This new storage will be an important first step in creating badly needed additional storage in the Basin.

The most important aspect of this legislation, however, is that it represents a consensus between water user groups in the Basin, a consensus not only that more water is needed, but a consensus on specific projects for action that will help meet mutual goals.

That is why, Mr. Chairman, this hearing today is so important. It gives the people who live in the Basin a chance to tell us what they think of this bill, and the future of this project. This legislation, and hopefully future legislation completing this project, truly belong to the people of this Basin. Today they will tell us what they think of their bill, and I am confident we will all listen carefully to what they have to say.

Thank you.

Senator EVANS. Thank you very much. We do express to Senator Adams our appreciation for his co-sponsorship. Having gotten deeply into it, we're partners in trying to come up with an appropriate bill, one that we can, in partnership, get through the Senate and through the Congress.

Thank you very much.

Now, in the first panel, we'll sort of set the stage for the remainder of the day. We are asking John Keys, the Regional Director for the Pacific Northwest Region of the U.S. Bureau of Reclamation, and Larry Vinsonhaler, Regional Planning Director, Pacific Northwest Region, U.S. Bureau of Reclamation, to come for their testimony, which will be important to all of us in setting the stage for the rest of the afternoon.

STATEMENT OF JOHN KEYS III, REGIONAL DIRECTOR, PACIFIC NORTHWEST REGION, BUREAU OF RECLAMATION, DEPARTMENT OF THE INTERIOR, ACCOMPANIED BY LARRY VINSONHALER, REGIONAL PLANNING DIRECTOR, PACIFIC NORTHWEST REGION

Mr. KEYS. Good morning. It's nice to be here with you.

I'm John Keys, Regional Director of the Pacific Northwest Region of the Bureau of Reclamation.

I am pleased to have this opportunity to testify to the Committee today to summarize Reclamation planning activities on the Yakima River Basin Water Enhancement Planning Project, measures being considered in S. 1435.

My comments today are directed to the technical aspects of the legislation. Additional comments will be supplied by the Department of Interior during the authorization process.

In July 1986, I provided a statement on the Yakima Basin Enhancement Project study at the hearing held on the early action items that were then under consideration. Since that time, the status of the Yakima Indian Reservation portion of the study has changed. A stay in the adjudication proceedings, as it relates to the

Yakima Indian Nation claim, was granted by the Washington State Superior Court on December 10, 1986. An On Reservation Plan of Study was developed, and the Yakima Indian Nation is now proceeding to identify development potentials for detailed study. The process of selecting potentials for further study is scheduled to be completed early in 1988.

In an effort to provide greater direction for the study, a policy group consisting of the Washington Congressional delegation, the Yakima Indian Nation Tribal Chairman, and State agency directors was formed. Preliminary reports from each of the four work groups of this committee have been provided to the policy group.

Now I'd like to quickly review those measures included in both the present and earlier legislation, and then concentrate on the Cabin Creek Dam storage potential.

Measures included in the earlier and present legislation include raising Cle Elum Dam by 3 feet, the Keechelus Lake to Kachess Lake pipeline referred to as the K-K pipeline, Roza Canal reregulating reservoir, Sunnyside Canal automation, Wapato Irrigation Project system improvements, and subordination of Roza and Chandler powerplants. For the most part, my statement presented at the July 1986 hearing record is still valid.

Implementation of these elements would make available an average of 95,000 acre-feet of additional water each year through water savings and increased storage. In addition, an annual average of 192,000 acre-feet of water would be retained in specific river reaches by subordinating power generation at Roza and Chandler powerplants.

In a repeat of the worst year of record, these water savings would increase the available irrigation water supply by 53,000 acre-feet. For illustration purposes, the Kittitas Reclamation District, whose water supply is fully proratable, would receive an additional 3 percent of its diversion demand.

Now, I have a chart over here that shows the poorest water supply conditions with current level of irrigation, for the Kittitas Reclamation District. The black area shows the present development, the water supply that would be available. Basically, during a repeat of that worst year, they would have about 39 percent water supply. With the addition of the early implementation items, an additional 3 percent of diversion demand would be supplied.

Now, other irrigation districts would be similarly affected in proportion to the amount of their proratable water rights, except for the Roza Irrigation District. Roza would have a reduced diversion demand, and savings from reregulating reservoir would show great improvement to what they have now.

The second illustration shows what would happen for the anadromous fish escapement. Anadromous fish spawning escapement would be increased by about 12,500 adult fish, bringing the total anadromous fish spawning escapement for the Basin to 30,100 adults. The 30,100 would be from those present waters available, and that that comes from the early implementation items. It does not include the Cabin Creek.

The total construction cost for these measures, indexed to July 1987, is estimated at $46.5 million.

The objective of the Keechelus to Kachess pipeline is twofold. First, it is to transport water from the Keechelus subbasin, in which the average annual runoff exceeds the storage capacity, to the Kachess subbasin, where the opposite is the case. The second objective is to reduce the flows in the Keechelus reach of the Yakima River during September, so that spawning will occur in a lower channel elevation. This operation would decrease the level of incubation flows required in the river from October through March, when reservoir filling occurs each year.

The pipeline is one of the measures being considered to maintain water neutrality as it relates to the construction of the Easton fish ladder and operation of the Yakima River upstream. Operation of the pipeline from a system perspective is complex, and the Storage Work Group has been asked to consider the accomplishments of the pipeline and to report its findings to the Policy Group.

Cabin Creek is a tributary of the Yakima River. It is located about 2.5 mile upstream from Easton Diversion Dam. The proposed dam site is located on Cabin Creek about 4 miles west of Easton. The estimated average annual runoff at the dam site is about 75,000 acre-feet, with an estimated low annual runoff of 30,000 acre-feet, and an estimated high of 147,000 acre-feet.

This illustration shows the potential dam site in the canyon there, and the reservoir area that would be inundated with filling of the reservoir. Most of those lands are Burlington Northern, Boise-Cascade, and there are some Washington State lands in there.

S. 1435 would authorize construction of storage facilities, subject to further study and findings of economic and technical justification. The additional water would become part of the total water supply available for instream flow and supplemental irrigation uses. Preliminary studies indicate that, with the amount of runoff available, a reservoir size of 100,000 to 150,000 acre-feet may be optimum.

Full utilization of the additional storage would have contrasting fishery effects on different river reaches. The facility would allow reduced withdrawals from Keechelus Lake during September, improving spawning conditions in the reach below Keechelus Dam. However, when downstream irrigation and instream flow demands are met during September, use of the improved water supply would raise Yakima River flows below Easton, thereby negatively affecting spawning conditions in that reach of the river.

Preliminary information based on a 150,000 acre-foot reservoir indicates that the irrigation water supply in the Yakima Basin, in a repeat of the worst year of record, would be increased by about 94,000 acre-feet with the construction of Cabin Creek Dam. An additional 7 percent of the Kittitas Reclamation District's diversion demand would be met from this increased yield.

That increase is shown here on the chart. Basically that would bring KRD up to approximately 50 percent in that worst year.

Anadromous fish spawning escapement for the Basin would be increase by 18,600 adults. These increases in water yields and spawning escapement assume that the early implementation measures are in place, and are in addition to the accomplishment of these measures. That gives us a total increased irrigation water

supply of about 147,000 acre-feet for the Basin. An additional 10 percent of the diversion demand of the Kittitas Reclamation District would be met with the early implementation elements and Cabin Creek in place. The total annual anadromous fish spawning escapement would be 48,700 adults.

Preliminary estimates indicate that the construction cost of a storage structure at the Cabin Creek site would probably be in the range of $117 million to $186 million. The $117 million estimate is for a 100,000 acre-foot reservoir. The $186 million estimate is for a 150,000 acre-foot reservoir. These are July 1987 prices. This compares to the $105 million authorization ceiling in the draft legislation.

Now, there is a large slide area located about a mile downstream from the Cabin Creek dam site, shown on this aerial photograph. The slide would not directly affect the integrity of the dam site, but further movement could occur at any time, blocking the channel downstream. Expected build-up of the water table from the reservoir could aggravate the slide area. During detailed studies, alternative solutions to address this concern will be explored, and costs developed. Measures to address this concern could significantly increase our current estimates of providing storage at the Cabin Creek dam site. By mid-November we hope to have more information on the size, type of structure, cost, and system operational contributions of Cabin Creek storage.

One of the problems that we got into in trying to estimate the cost for Cabin Creek was the location of bedrock. Our first estimates showed that we could probably hit bedrock at about 20 feet. That was based on just an aerial reconnaissance and a visit to the site by our geologist. We've since done drilling at the site, and bedrock is a lot further down. The hole that we put down right on the dam axis, we went 115 feet before we hit bedrock. That's the reason for our large increase in cost estimate for the site.

Now, the advisory work group on water law has concentrated its activities on addressing S. 1435 as it relates to State and Federal water right issues, and is providing its comments directly to the Policy Group. We're not separately addressing the water rights issue today.

Those are our comments today on the elements of S. 1435 and Cabin Creek. We would be glad to try to answer any questions that you might have for us today.

[The prepared statement of Mr. Keys follows:]

STATEMENT OF JOHN KEYS, III, REGIONAL DIRECTOR FOR
THE PACIFIC NORTHWEST REGION, BUREAU OF RECLAMATION
REGARDING LEGISLATION TO AUTHORIZE CERTAIN ELEMENTS OF THE
YAKIMA RIVER BASIN WATER ENHANCEMENT PROJECT
October 19, 1987

Introduction

My name is John Keys. I am the Regional Director for the Pacific Northwest Region of the Bureau of Reclamation.

I am pleased to have this opportunity to summarize Reclamation planning activities on Yakima River Basin Water Enhancement Project measures being considered for authorization in S. 1435. As you are aware, the normal planning process involves the preparation of documents containing the engineering, economic, environmental, and cost-sharing aspects of a project. This process provides the Administration with the opportunity to review and evaluate these aspects of the project prior to consideration for authorization.

In this instance, the Administration has not had the opportunity for such a review. Therefore, my comments today are limited to the technical aspects of the measures included in the bill.

In July of 1986, I provided a statement on the Yakima River Basin Water Enhancement Project study at the hearing held on the early action legislation then under consideration. Since that time, the status of the Yakima Indian reservation portion of the study has changed. A stay in the adjudication proceedings, as it relates to the discovery phase of the Yakima Indian Nation's claim, was granted by the Washington State Superior Court on December 10, 1986. An Onreservation Plan of Study was developed, and the Yakima Indian Nation is now proceeding to identify development potentials for detailed study. The process of selecting potentials for further study is scheduled to be completed early in 1988.

In an effort to provide greater direction for the study, a policy group consisting of the Washington congressional delegation, the Yakima Indian Nation Tribal Chairman, and State agency directors was formed. At the request of Senator Dan Evans and Congressman Sid Morrison, four work groups were formed to advise the policy group on (1) storage measures, (2) nonstorage measures, (3) fishery information, and (4) applicable water law. Preliminary reports from each of those work groups have been provided to the policy group.

I would like to quickly review those measures included in both the present and earlier legislation and then concentrate on the Cabin Creek dam storage potential.

Early Implementation Measures (Except Cabin Creek Dam and Reservoir)

Measures included in the earlier and present legislation include the following: Cle Elum Dam 3-foot raise, Keechelus Lake to Kachess Lake pipeline, Roza Canal reregulating reservoir, Sunnyside Canal automation,

Wapato Irrigation Project system improvements, and subordination of Roza and Chandler Powerplants. For the most part, my statement presented at the July 1986 hearing regarding these measures is still valid.

Implementation of these elements would make available an annual average of 95,000 acre-feet each year through water savings and increased storage. In addition, an annual average of 192,000 acre-feet of water would be retained in specific river reaches by subordinating power generation.

In a repetition of the worst water year of record, these water savings would increase the available irrigation water supply by about 53,000 acre-feet. For illustration purposes, the Kittitas Reclamation District, whose water supply is fully proratable, would receive an additional 3 percent of its diversion demand. Anadromous fish spawning escapement would be increased by about 12,500 adult fish, bringing the total annual anadromous fish spawning escapement for the basin to 30,100 adults.

The total construction cost for these measures, indexed to a July 1987 price level, is estimated at $46.5 million.

The objective of the Keechelus to Kachess pipeline is twofold; first, it is to transport water from the Keechelus subbasin, in which the average annual runoff exceeds the storage capacity, to the Kachess subbasin, where the opposite is the case; and second, it is to reduce the flows in the Keechelus reach of the Yakima River during September so that spawning will occur at a lower channel elevation, thereby decreasing the level of incubation flows required in the river during October through March when reservoir filling occurs.

The pipeline is one of the measures being considered to maintain water neutrality as it relates to the construction of the Easton ladder and operation of the Yakima River upstream. The operation of the pipeline from a system perspective is complex, and the Storage Work Group has been asked to consider the accomplishments of the pipeline and to report its findings to the Policy Group.

Cabin Creek Dam and Reservoir

Cabin Creek, a tributary of the Yakima River, is located 2.5 miles upstream from Easton Diversion Dam. The proposed damsite is located on Cabin Creek about 4 miles west of Easton, Washington. Estimated average annual runoff at the damsite is about 75,000 acre-feet, with an estimated low of 30,000 acre-feet and an estimated high of 147,000 acre-feet.

S. 1435 would authorize construction of storage facilities, subject to further study and findings of economic and technical justification. The additional water would become part of the total water supply available for instream flow and supplemental irrigation uses. Preliminary studies indicate that, with the amount of runoff available, a reservoir size of 100,000 acre-feet to 150,000 acre-feet may be optimum.

Full utilization of the additional storage would have contrasting fishery effects on different river reaches. The facility would allow reduced withdrawals from Keechelus Lake during September, improving spawning

conditions in the reach below Keechelus Dam. However, when downstream irrigation and instream flow demands are met during September, use of the improved water supply would raise Yakima River flows below Easton, thereby negatively affecting spawning conditions in that reach.

Preliminary information based on a 150,000-acre-foot reservoir indicates that the irrigation water supply in the Yakima basin, in a repeat of the worst year of record, would be increased by about 94,000 acre-feet. An additional 7 percent of the Kittitas Reclamation District's diversion demand would be met from this increased yield. Anadromous fish spawning escapement for the basin would be increased by 18,600 adults. These increases in water yields and spawning escapement assume that the early implementation measures are in place and are in addition to the accomplishments of those measures. Thus, the total increased irrigation water supply would be 147,000 acre-feet. An additional 10 percent of the diversion demand of the Kittitas Reclamation District would be met with the early implementation elements and Cabin Creek in place. The total annual anadromous fish spawning escapement would be 48,700 adults.

Preliminary estimates indicate that the construction cost of a storage structure at the Cabin Creek site would probably be in the range of $117 million to $186 million (July 1987 prices) as compared to the $105 million authorization ceiling (October 1986 prices) in the draft legislation.

A large slide area is located about 1 mile downstream from the Cabin Creek damsite. The slide would not directly affect the integrity of the damsite, but further movement could occur at any time, blocking the channel downstream. Expected buildup of the water table from the reservoir could aggravate the slide area. During detailed studies, alternative solutions to address this concern would be explored and costs developed. Measures to address this concern could significantly increase our current estimates of providing storage at the Cabin Creek site. By mid-November, we hope to have more information on the size, type of structure, cost, and system operational contributions of Cabin Creek storage.

The advisory work group on water law has concentrated its activities on addressing S. 1435 as it relates to State and Federal water right issues and is providing its comments directly to the Policy Group. As a result, we are not separately addressing the water rights issues. The Department of the Interior has been requested to review and submit its report on S. 1435. The Bureau of Reclamation's input will be included as a part of this departmental report.

Thank you; I would be pleased to answer any questions you may have.

Senator EVANS. We thank you very much.

Let me start with—I'm not quite sure where to start. But first, these costs as you have put them forth, both for what I would consider common proposals, common to both the previous proposal and this Act, you say total $46.5 million.

Mr. KEYS. Yes.

Senator EVANS. Have you calculated a cost/benefit ratio for that, and for the Cabin Creek proposal? And if so, what are the elements to that, and what is the end result?

Mr. KEYS. Larry Vinsonhaler is our planning chief, and can give you some elements there.

Senator EVANS. Surely. Larry?

Mr. VINSONHALER. The benefit/cost ratio for all the elements without Cabin Creek is about, I think, 1.5 to 1. We have not done the final figures on the benefit/cost ratio when Cabin Creek is included. We do not know yet if it's economically justified. We hope by mid-November to have those answers.

Senator EVANS. When you say 1.5 to 1, that presumes then that there is sufficient yearly benefit to be one and a half times the carrying cost of a $46.5 million investment. That's essentially it?

Mr. VINSONHALER. Yes, sir.

Senator EVANS. What is that carrying cost, approximately, for the 46.5 million current estimate?

Mr. VINSONHALER. The annual cost, sir?

Senator EVANS. Yes.

Mr. VINSONHALER. I don't have that number in front of me. I'd be glad to provide that for the record.

Senator EVANS. I would presume it would be something close to 10 percent of that 46.5 million. I'm trying to get the annual benefits. What are the annual benefits calculated from? What make up the benefits?

Mr. VINSONHALER. The supplementary irrigation and the benefits for the instream flow.

Senator EVANS. Do you have those separated out at all in, say, dollar terms, or percentages? What percentage of the benefit side of that equation comes from each of the elements?

Mr. VINSONHALER. I think it's probably about 55 percent instream flow and 45 percent irrigation.

Senator EVANS. In essence then, understanding that that may be an approximate figure, that's where the value of these common projects would be, and collectively go in to make up the overall benefit ratio. Is that a benefit ratio that is, in your experience, high, low, average, adequate? What is a minimum cost/benefit ratio that would cause you to question the validity of a project?

Mr. VINSONHALER. Basically we look for 1.0 as a cutoff point. Anything over that shows that the benefits outweigh the cost. 1.5 for a project that includes both fishery and irrigation benefits is a good B/C ratio.

Senator EVANS. I would guess that, however, 1.05 or 1.1 is pretty skinny for any cost/benefit ratio. At least if you were building a private project you certainly wouldn't go ahead on that skinny a basis.

Mr. VINSONHALER. 1.05 or 1.1 sends you back to take another look at it, or maybe even a second look after that one.

Senator EVANS. Yes, okay. What is the K-K pipeline portion of that $46.5 million in cost?

Mr. VINSONHALER. The July 1987 cost for the K-K pipeline is $12.9 million.

Senator EVANS. Have you attempted, or is it appropriate to try to separate out cost/benefit ratios on each of the elements, or is it really more important to keep these all together as a functioning group, and calculate a cost/benefit ratio on the whole?

Mr. VINSONHALER. We've tried to keep them all together, because you put them all into the operation, and it's difficult to separate them out; although we have done, and can do that. But we think it should be considered as a project as a whole.

Senator EVANS. It would seem to me that that's probably particularly true of that pipeline because of the potential flexibility it gives you in managing the water at whatever flow levels you get during the year.

Mr. VINSONHALER. That's absolutely right. To be able to shift that water back—or, not back and forth, but from Keechelus to Kachess gives us a lot of flexibility in that portion of the system.

Senator EVANS. On this chart here, you've got the dotted line which is presumably the full reservoir; but is that at what level, the 100,000 or the 150,000?

Mr. VINSONHALER. That's the 150.

Senator EVANS. That's the 150. So that would be the maximum size of a reservoir behind there.

Mr. VINSONHALER. Yes.

Senator EVANS. Interestingly enough, most of that has already been logged off.

Mr. VINSONHALER. Yes, it has.

Senator EVANS. And it's fairly clean.

What about the slide area? Has that slide area been a long-standing natural slide area? Has it been exacerbated by timber cutting or by any other activity that's taken place on that slope?

Mr. VINSONHALER. Just preliminary results from our geologist show that it's been there for quite a while, and has not been active in, oh, the recent history. But it has a potential. We are right now looking at several options for handling it. One is just leave it alone, and if it slides, then we go in and clean it out. A more expensive option is to put a tunnel down the left side of the channel there. That's one of the things that we're taking a much closer look, now that we've had the geologist out in the field drilling and so forth.

Senator EVANS. It seems to me, just from looking at it, that the tree growth on the lower slopes, and up above are, what, trees of 30 to 40 years?

Mr. VINSONHALER. Yes.

Senator EVANS. So it hasn't had slide activity for at least that long a period of time.

Mr. VINSONHALER. That's right. That's one of the things that our geologists have used to tell us that there has not been recent activity on the slide.

Senator EVANS. Do you know offhand who that land is owned by?

Mr. VINSONHALER. In the reservoir area it's Boise-Cascade.

Senator EVANS. I understand that, but I mean the particular slide area.

Mr. VINSONHALER. In the slide area, I don't know. We haven't looked into it yet.

Senator EVANS. So you don't know offhand whether, because of the potential for slide, there is any banning of timber cutting within that fringe.

Mr. VINSONHALER. None that we know of.

Senator EVANS. With that, let me turn to my colleague Sid Morrison for any questions.

Mr. MORRISON. Thank you, Senator.

I'm going to hold down my questions because we have a number of people to testify, but John, I think it would be appropriate to have, for the record, a statement from you as to the future of this Yakima River Basin Enhancement Project under the reorganization plans of the Bureau of Reclamation.

Senator EVANS. That's right. That would be helpful.

Mr. KEYS. Thanks for giving me a soapbox. [Laughter.]

Right now we don't see an affect on the effort of the Bureau of Reclamation and the work that we're doing in the Yakima River Basin. There is a commitment from the Bureau of Reclamation to finish all projects that are authorized, construction and planning-wise. The planning team that we have together I understand, and am committed to keeping them working on the Yakima Project. We see it being completed, as funding allows. So I don't see an impact on our effort in the Yakima Basin as far as the enhancement program goes, from any reorganization or change in emphasis of the Bureau of Reclamation.

Mr. MORRISON. Is that view shared by the Commissioner of the Bureau of Reclamation? [Laughter.]

Mr. KEYS. Yes, sir. We have discussed that quite extensively because we have, in the Pacific Northwest Region, made quite a commitment to the people in the Yakima Basin. We've discussed it with the Commissioner, and that is his agreement with us.

Mr. MORRISON. Good. Thank you.

Senator EVANS. That leads to one other question: Is that also shared by the Director of the Office of Management and Budget? [Laughter.]

Mr. KEYS. I can't speak for him, Senator.

Senator EVANS. I see. That sometimes is the biggest hurdle of all.

Just one further question: We haven't mentioned at all conservation techniques, and to what degree you may have been looking into this, or will look into it, as an element in this process.

Mr. KEYS. We are certainly looking at conservation techniques. One of the work groups that is working under the Policy Group is considering those conservation techniques that can be used in the Valley, and how much storage they could be used to replace. I can't give you specifics, but I know that we're looking at on-farm techniques, putting laterals into pipe, using sprinkler systems, scheduling systems, that sort of thing—putting in re-reg' reservoirs that allow re-use of water. All of those are being considered as a base or a core for our whole enhancement program.

Senator EVANS. Have you looked also at—well, fundamentally, I know that it gets very sticky. Maybe you don't even want to touch it. But as part of the conservation technique elements, in other words the non-structural ways to handle some of our shortages, are

you also looking into the concept—which I recognize is not one that is currently in action, or that's available—but the concept of purchasing water rights back?

Mr. VINSONHALER. Yes, Senator. That's one of the items the work groups are looking at; the possibility of buying water rights for dry years, putting it in a bank and being able to have it. That's being looked at.

Senator EVANS. It seems to me that that would be useful to take a look at. I would guess then that what you would do is calculate the—for instance, taking this $46.5 million cost that relates to a 53,000 acre-feet increase in irrigation water, and the annual carrying cost of whatever share of that $46.5 million that goes into irrigation, compared with the number of acre-feet, gives you some idea of I guess what you'd call a rental of water, or a reservation of water for those dry years, and the price you'd have to pay for it.

Mr. KEYS. I might add that, in addition to looking at the purchase and putting it in the bank, we are also looking at the water bank concept that's under way in the State of Idaho now, where people who have excess water during any year can put that water into a water bank to be sold to those people that need it, or want to buy it. We have brought the information in from that experience with the Idaho water bank, and are using it.

Senator EVANS. If you're proceeding along that way, I think, at an early stage, it would be helpful to get to the point where we could publicize some range at least of what that water rental or water purchase might be, to see if that creates any interest. It may be so low that everyone says, "Don't even talk to me." It may be so high you'll get flooded with more applications than you know what to do with.

Mr. KEYS. The range you speak of, is it acre-feet, or the price of the water?

Senator EVANS. Well, I would think what would be valuable is to be able to say to the irrigators of the Valley, either those who may have—as Larry points out—who may have extra water, or those who would be willing during a period of shortage, or maybe permanently, to say, "Look, we'll give it back," and to have, then, an ability to say: On a yearly basis, we'll pay you $40, $50—I don't know what the figure would be—per acre-foot for that year, or for a time when it's short, and you're willing to go without. Presuming you have, you know, a right that's strong enough to have water during those short years. And the same thing for someone who might be willing to sell back a water right permanently, and how much that would be worth, given the alternatives.

I think we ought to be looking at all alternatives to see which combination is going to get us the answer we want at the cheapest possible price, and give us the stability we need for the long haul.

That shouldn't take too long to do some calculations, should it, Larry?

Mr. VINSONHALER. I think we hope to have some answers from the conservation and storage work group within 3 months.

Senator EVANS. Good.

Mr. MORRISON. Senator, if I might add at this point, this is something that I had requested last year, fearing as we came into 1987 with low carry-overs in our reservoirs, that the State legislature

should be looking at a package. Unfortunately we needed to have that package prepared and ready to go to them. I think, perhaps as a result of your inquiry today, and our meeting with the working groups later one, we could push this particular point. I know that your interest is in doing it perhaps on a permanent basis. I think our immediate concern here should be, in fact, to make this option available on a short-term basis so that we could have water sharing in fact without affecting long-term water rights under the old concept of "use it or lose it."

Senator Evans. Sure. Sure. I think both concepts are worth looking into. One is obviously much easier than the other, the idea of the temporary or seasonal kind of conservation. But without that in the picture, we really can't tell what a true cost/benefit ratio is, because we are leaving out one of the potential elements in it. We all like to construct things; but it's important if we can find the non-concrete answer, or part of an answer, that will get us there faster and just as well, we ought to be taking a good look at it.

Mr. VINSONHALER. Senator, I'd just like to make one statement. That is, don't leave—our perception is that we need conservation and storage. Conservation cannot do it all by itself, so the total package needs to include a combination.

Senator EVANS. Well, I'm sure that that's the case; or at least just inherently it seems to be the case. But I guess I can't say that I would totally agree with that until we have facts out on the table, and see. You know, we might find that in the calculation, you lay it out there and say, "Here's how much we'll pay on a yearly basis for when there's a short water year, if you're willing to forego water, 'you may find that you get more than you need. It's kind of silly to build anything at that point, isn't it? It seems to me, on the surface, that that would be the case. I'm not suggesting that we're going to get there. I think the chances of that are maybe slim to none, but if you did, and the end result was sufficient water without construction, obviously it makes sense. We may hear from others on that as time goes on.

Mr. MORRISON. From the sound of the audience, I think you will. [Laughter.]

Senator EVANS. That's what hearings are for, to bring forth some new ideas, and see how they go.

And we do thank you both for not only testifying, but the continuing work that you're doing for us here in the State and in the Valley.

Then next panel will be The Hon. Irving Newhouse of the Washington State Senate, from Sunnyside, Washington; The Hon. Margaret Rayburn, State Representative from Grandview, Washington; The Hon. Shirley Doty, State Representative from Yakima, Washington; and Andrea Beatty-Riniker, Director of the State Department of Ecology, who is representing Governor Booth Gardner. She will also be——

In fact, let's do this in two. We're short of chairs. Why don't we take the three legislators first, and then we'll have Andrea Riniker, and Allan Pettibone—and Judy Merchant. That's right. We would be out of chairs.

All right. Proceed.

Obviously, from my position here, we'll have to defer to the Senator first. Irv, we're glad to have you here.

STATEMENT OF HON. IRVING NEWHOUSE, WASHINGTON STATE SENATOR

Senator NEWHOUSE. Thank you, Dan.

I'm appearing here as State Senator from the 15th District in support of S. 1435, and ask the expediting of the enhancement of the Yakima River. I speak as Senator from the 15th District, which has all of Wapato and Sunnyside projects within our boundaries, and most of the Roza; and I know well about the problems we've faced over the past few years.

I want to just outline a few points that I think we've got to include in our considerations. One is that water conservation and management—as you have discussed with the previous witness—opportunities in that must be pursued along with all others. We've got to efficiently use the water we have, because we can't make much more than we get up in the hills, obviously, including, if you will, the leasing and purchasing of water rights, if that's a possible alternative.

But storage, I think, will need to be a component of any overall solution. I can't see that conservation and management can accomplish the entire purpose. Already we re-use that water many times, it seems. Some of that coming from the reservoirs goes to the Kittitas Project, back to the river, used in the Roza and Sunnyside and Wapato, and then back to river, again used by the Kennewick Project. I also want to say that the Federal Government has a major obligation for improved water supply to fulfill the supply contracts entered into at the turn of the century, shortly thereafter. That includes water supply contracted for and lost in the Federal Court *Quackenbush* decision.

There's an urgency, I think, to do something soon to increase water supply, as short water supply years are coming with increasing regularity. It's of interest to note, perhaps, that, come Thursday we will set a new record—and I'm sure we will, from the looks of the weather—of the number of days without rain consecutively. And maybe it's of historic interest to note that the record was set in 1929. There may be some coincidence there. [Laughter.]

A water conservation program must be coordinated with the irrigation districts so that any on-farm or system improvements provide net water savings. For example, I live in an area where we must use water to pump water, and I get the benefit of that. Saving in the area where I live wouldn't accomplish much for the overall district usage, because they're got to use power water anyway, and that that is wasted goes on down to Kennewick and other districts.

I wanted to say, too, that I think the State has committed itself on a bipartisan basis to doing its share. It's done this several times over the past few years.

But more than anything I want to express that I think there is general strong support for this type of legislation, and for the immediacy of the need. You mentioned that there are 20 witnesses here, and that seems to be quite a few. But I think if the truth

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were known, the crisis is great enough that we could have thousands.

Thank you.

STATEMENT OF HON. MARGARET RAYBURN, WASHINGTON STATE REPRESENTATIVE

Ms. RAYBURN. I'm Margaret Rayburn, Representative of the 15th District. I also serve as the Chair of the House Agriculture and Rural Development Committee.

I want to thank you, Senator Evans, and Congressman Morrison, for this opportunity to be here today and speak before you.

Irrigators were faced with the reality of a short water year early this 1987 season with the low water carry-over in the reservoirs, and we could see a very short snow pack. Our reservoirs are now dry. We've endured record heat over a long period, and today marks the 93rd day without precipitation in the Yakima River Basin.

I was pleased at the opening statement of Senator Evans when he said that he was able to fly over some of the reservoirs on his way here to Yakima, as I was going to suggest that if there was that opportunity to do a fly-over over the five basins, I hoped that they would do so.

The stumps and green vegetation that's now visible on the reservoirs' floors are very graphic descriptions of our water shortage. Even if Mother Nature is kind this winter with a heavy snow pack, the possibility of filling the reservoirs to capacity is quite remote.

As Senator Newhouse has stated, short years seem to be more frequent as far as our water supply is concerned. A coordinated effort, I see, of conservation, storing, and sharing must be a consideration.

As a Washington State Representative I am actively involved in the support of the Yakima River Basin Water Enhancement Project. I will continue this involvement, and will pursue the irrigation needs of the Yakima River Basin legislatively on the State level. The State, I think, has been very supportive in legislation, and I see this continued support.

I am here today to give my support to S. 1435, the early implementation legislation that you have introduced. I urge you to pursue these projects with vigor and work diligently to gain the support of your colleagues for passage. The success of this legislation is vital to the economy of the Yakima River Basin and the State. As Chair of the House Agriculture and Rural Development Committee I remind you of the importance of our billion dollar agriculture industry, and as it relates to the needed revenue and exports of Washington State and the Nation.

I would at this time like to take the opportunity to announce that tomorrow, October 20, at 12 noon, I will be holding a Joint Senate-House Agriculture Committee meeting at the Federal Savings and Loan Bank in Sunnyside to discuss the Governor's veto message of House Bill 978, and also how that veto message relates to today's hearing, and the comments that we will be gathering today.

I thank you for this opportunity.

STATEMENT OF HON. SHIRLEY L. DOTY, WASHINGTON STATE REPRESENTATIVE

Ms. DOTY. Good morning. For the record I am Shirley Doty, member of the Washington State House of Representatives. The 14th legislative district encompasses the upper Yakima Valley.

In my brief testimony today I offer three suggestions which address concerns raised during discussions with people of this area. I'm going to go away a little bit from the technical aspects. You will have plenty of good testimony on that. My testimony is more on the process.

First, it is important to identify the barriers that remain between our position today and actual work on elements of the implementation plan. Identifying those barriers will enable us to formulate a plan of action designed to overcome specific problem areas. Now perhaps the Policy Group has already done that, but has not yet had the opportunity to inform all the players. If those barriers have not been outlined could a work group be assigned to this task? I believe we would have a better sense of direction if we had that information.

Reopening lines of communication is my second suggestion. For the last year, maybe year and a half, there has been a tendency for a few individuals to get together and decide on a course of action. Others involved in the enhancement process are not informed until the action is nearly completed. This issue is too important to be subjected to personal agendas. All—and I have underlined that—all key participants should be a part of the decisionmaking process from the beginning. They should have access to information and the opportunity to share their ideas. We need a strong team effort to gain the support of other legislators whether on the national level or State level.

My last suggestion revolves around clarifying the situation regarding State referendum money that was allocated, I believe, in 1984 for an element in the Enhancement Project. I am referring to the $14 million earmarked for the East Selah Reregulating Reservoir. Although that element is no longer a part of the plan, many feel that the money ought to be available as part of the State's share of costs for the total project.

In closing, I urge you to give careful consideration to these suggestions. Addressing these topics would add credibility and strength to this process.

Thank you very much for being here today, and holding this hearing.

Senator EVANS. We thank you, and thank all three of you for coming.

One comment, first, on Representative Doty's comments. I would hope that $14 million, or something like that, certainly does remain available. It's going to be necessary, given the current budgetary situation nationally, coupled with the new policies of the country in terms of cost sharing, for us to have some substantial non-Federal share of this whole enterprise. And at some point, whether it's in the second phase, or third phase, we certainly will need that. In fact, it was having that early on, as a promise, that has helped move us as fast as we have been moving.

Ms. DOTY. May I briefly respond?

Senator EVANS. Surely.

Ms. DOTY. One of the reasons why I felt that was particularly important is, that is money that would be available now for some of the early design work, and that type of a thing; whereas some of the Federal dollars may take a little longer to put into place.

Senator EVANS. Yes. That would be very helpful.

Ms. DOTY. Thank you.

Senator EVANS. Just one other question. You mentioned barriers. Do you have any existing barriers in mind, or is it just a question of urging that we get to the point where we can move ahead on the legislation?

Ms. DOTY. It seems to me that we've been moving in somewhat different directions. We go for a while on a particular issue, and then we pull back a little bit. I think that it would be helpful to have those specific barriers identified in writing, so that we all can address the necessary action to overcome those.

I think that there's more interest in this issue than is readily evident. There are a lot of folks out there who want to know what's going on, where we are in the process; and sometimes we're not able to answer them because we don't know for sure the workings that are going on, perhaps behind the scenes.

Senator EVANS. I would hope that this hearing and what evolves out of the hearing, the questions and answers, and the testimony, will give us a good base for trying to then take the working groups and the Policy Group, and laying out as specifically as we can, where we are, and what—you know, what the process should be to get us to the next stage.

Representative Morrison, do you have any questions or comments?

Mr. MORRISON. Shirley, just a comment to you. Of course, the courts are also involved, and we have a little trouble there, to the extent at least that if adjudication was a barrier to our proceeding with enhancement, now, we trust that with the work of the Yakima Indian Nation and others, that we'll be able to, all of us, move down this track, which is a little different than where we were a year ago last summer, when we held the hearing.

To all of our legislators, first of all, thank you, because we've seen tremendous support from the whole team out of the Central Washington area on the enhancement program.

And you're right about the $14 million. That's there. We keep looking at it because under the new water resources procedure there's just no way anything will be advanced without a significant local cost share. And those dollars are there.

Maybe this year will be a unique opportunity. For the first time, Western Washington is also brushed with this same problem. I was kidding about the water in Tacoma, but they're down to two days' supply, I understand, and maybe we'll have their attention on this issue when you meet this winter.

Ms. DOTY. I'm looking forward to that.

Senator EVANS. Thank you very much. The next half of the panel, Andrea Riniker, and Allan Pettibone and Judy Merchant representing the Department of Fisheries. Allan Pettibone, of

course, Director of the State Department of Agriculture, and Andrea Riniker, the State Department of Ecology.

STATEMENT OF ANDREA BEATTY RINIKER, DIRECTOR, WASHINGTON STATE DEPARTMENT OF ECOLOGY, REPRESENTING GOV. BOOTH GARDNER, ACCOMPANIED BY C. ALLAN PETTIBONE, DIRECTOR, DEPARTMENT OF AGRICULTURE; JUDY MERCHANT, DEPARTMENT OF FISHERIES; AND RICH POLKER, DEPARTMENT OF WILDLIFE

Ms. RINIKER. Good morning Mr. Chairman, Congressman Morrison, Mr. Brown.

I am Andrea Riniker, the Director of the Washington Department of Ecology.

I guess first I'd like to express my gratitude to you and to Congressman Morrison for the leadership that you have demonstrated.

Clearly we are all aware and grateful for the leadership that both of you gentlemen have demonstrated in addressing the persistent water supply problems of the Yakima River Basin. We are certainly appreciative of your efforts to date, and those that we know that you're going to make for us in the future.

I'm speaking here today on behalf of the Departments of Ecology, Agriculture, Fisheries, and Wildlife. You very kindly introduced two of my colleagues here. Let me introduce Rich Polker, at the end of the table, who is the assistant to the Director of the Department of Wildlife, joining Judy and Allan out here today.

We think it's significant that these four agencies are united in support of this important piece of legislation. It's well known in this state, and I guess we're getting to be well known across the Nation for the water supply problems which exist in the Yakima River Basin. The demand for the river's valuable resources is clearly greater than what the available supply is. The drought conditions which are experienced by our state magnify those problems and make it even more imperative for all of us that a solution be found.

As Director of the State agency which is charged with overseeing Washington's water resources, I am constantly being made aware of the shortage of water for competing uses in the Basin.

We have heard from the orchardist who has had his water supply shut off because the irrigation district in which he resides has a proratable water right. We have heard from the concerned citizens who wonder where there town will find water once its supply is gone.

We have heard from fisheries interests and members of the Yakima Indian Nation who are working within the Yakima enhancement process to ensure a water supply for the valuable fishery resource. All these are legitimate needs which must be addressed by Congress and by the State of Washington.

The legislation which is under consideration today, we feel, responds to what we have heard. It is one more step to assure a reliable water supply for this basin in the years to come.

Along with the people of the Yakima River Basin, the State of Washington would like to move forward now to begin addressing these issues.

The elements contained in S. 1435 are for the most part those which we supported last year at a field hearing in July. The measures contained in this legislation demonstrate a commitment to solving the Basin's water supply problems.

We think that the legislation is a plus for both agriculture and fishery interests. The additional supply of water provided by the 3 foot raise in Lake Cle Elum and the various improvement in delivery systems in several irrigation districts will clearly help.

The power subordination provisions at the Chandler and Roza power plants will help provide the instream flows vital to fish and wildlife.

The new element in this legislation, the proposed reservoir at Cabin Creek, is contingent upon the development of a water conservation plan. That conservation provision is in keeping with the phased approach to this project where cost-effective non-storage measures would be explored before we are asked to pay for storage projects.

The State does have a concern with the language which calls for the conservation plan to be developed. The bill appears to limit the Secretary of Interior's assignment to water use activities associated with new contracts for water provided from the Yakima Enhancement Projects. Existing use from currently developed facilities is apparently excluded. We suggest the language be changed so that all prudent opportunities for water conservation will be examined and thus be eligible for cost-share benefits.

In addition, we understand it is the intent of this legislation to allocate the new water created by any new storage to meet existing water demand in the Basin.

There are two other portions of the bill which, from the State perspective, need some clarification. First, in section 1 of the bill it is mentioned that this act will be consistent with the laws which authorize the creation of the Northwest Power Planning Council. It is our wish that any facilities in the Yakima River Basin which are consistent with both the Yakima Enhancement and the Power Council goals, and which are funded by local ratepayers, be counted toward the non-Federal contribution required in this act.

Finally, section 6 of the legislation contains funding authorizations for all elements but the Wapato Irrigation Project canal improvements. We understand that this was merely an omission in drafting, and are certainly hopeful that it will be restored.

Mr. Chairman, we think that there are some recent events that indicate that a spirit of cooperation is clearly beginning to take shape in the Basin. This summer representative of several agencies and interest groups hammered out an interim operating agreement for the Easton Dam fish ladder. That agreement was recently passed by the Tribal Council of the Yakima Indian Nation.

The task of coming to that agreement was not an easy one, but it serves as an example of what can be accomplished when competing interests sit down with a commitment to solve a problem with everyone's goals in mind.

We are particularly gratified to see this approach continued through utilizing the four work groups which were appointed to examine all aspects of this legislation and other issues in the Basin. The four agencies sitting before you have representation on those

groups. We are pleased with the progress of the work groups to date, and we are looking forward to their reports to the Policy Committee this afternoon.

Again, we thank you for holding this hearing in Yakima, so that people of the area may comment on this most important piece of legislation. We're sure that the passage of this legislation will generate momentum for additional phases of the Yakima Enhancement Project to be accomplished.

We'd be glad to respond to any questions that you may have.

[The prepared statement of Ms. Riniker follows:]

THE STATEMENT OF

ANDREA BEATTY RINIKER, DIRECTOR

WASHINGTON STATE DEPARTMENT OF ECOLOGY

ON BEHALF OF

DEPARTMENT OF ECOLOGY

DEPARTMENT OF AGRICULTURE

DEPARTMENT OF FISHERIES

DEPARTMENT OF WILDLIFE

TO

SENATE SUBCOMMITTEE ON WATER AND POWER

REGARDING

S. 1435 AUTHORIZING CERTAIN

ELEMENTS OF THE YAKIMA RIVER BASIN WATER ENHANCEMENT PROJECT

YAKIMA, WASHINGTON

OCTOBER 19, 1987

Good morning Mr. Chairman, Congressman Morrison and Mr. Brown. I am Andrea Riniker, the Director of the Washington State Department of Ecology.

First I want to express my gratitude to you and Congressman Morrison for the leadership you have demonstrated in addressing the persistent water supply problems of the Yakima River Basin. We are very appreciative of your efforts.

I am speaking here today on behalf of the Departments of Ecology, Agriculture, Fisheries and Wildlife. It is significant that these four agencies are united in support of this important legislation.

It is well known in this state and, in fact, around the nation, of the water supply problems which exist in the Yakima River Basin. The demand for the river's valuable resource is greater than the available supply. The drought conditions being experienced by our state magnify those problems and make it even more imperative that solutions be found.

As Director of the state agency which is charged with overseeing Washington's water resources, I am constantly being made aware of the shortage of water for competing uses in the Basin.

We have heard from the orchardist who has had his water supply shut off because the irrigation district in which he resides has a proratable water right. We have heard from concerned citizens who wonder where their town will find water once its supply is gone.

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The legislation which is under consideration today responds to what we have heard. It is one more step to ensure a reliable water supply for this basin in years to come.

Along with the people of the Yakima River Basin, the State of Washington would like to move forward now with those measures which can be agreed upon.

The elements contained in S. 1435 are for the most part those which were supported by the state at a Field Hearing on July 1 of last year. The measures contained in this legislation demonstrate a commitment to solving the Basin's water supply problems.

This legislation is a plus for both agriculture and fishery interests. The additional supply of water provided by the 3-foot raise in Lake Cle Elum and the various improvements in delivery systems in several irrigation districts will help.

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This summer representatives of several agencies and interest groups hammered-out an interim operating agreement for the Easton Dam fish ladder. That agreement was recently passed by the Tribal Council of the Yakima Indian Nation.

The task of coming to that agreement was not an easy one but it serves as an example of what can be accomplished when competing interests sit down with a commitment to solve a problem with everyone's goals in mind.

We are gratified to see this process continued through utilizing the four work groups which were appointed to examine all aspects of this legislation and other issues in the Basin. The four agencies sitting before you have representation on those groups. We are pleased with the progress of the work groups to date and we are looking forward to their reports to the Policy Group this afternoon.

Again, we thank you for holding this hearing in Yakima so that the people of the area may comment on this most important piece of legislation. We are sure the passage of this legislation will generate momentum for additional phases of the Yakima Enhancement Project to be accomplished.

We would be glad to respond to any questions.

Senator EVANS. Thank you very much for your testimony, and for the very interesting and I think worthwhile suggestions for modification of the legislation.

In looking at the bill as it is now written, I think you're probably right that the conservation language appears to apply only to the Yakima Enhancement Project, capitalized.

I think that it does make good sense to suggest that, where it can be done effectively, the opportunity for water conservation and the opportunity of irrigators who have water rights throughout the Basin, whether old or new, to take part if they so choose, would make sense. It certainly broadens the opportunity for the conservation part of the package, and I would think that we ought to take a very close look at expanding that, and I believe we should.

Ms. RINIKER. Perhaps I can clarify one thing that was raised earlier in terms of the existing money that was originally authorized for the East Selah Re-regulating.

Senator EVANS. Yes.

Ms. RINIKER. The legislature did come back and revisit that. It has been set aside for this project, although it is fairly narrow in the sorts of activities that it can be used for. I think, following Representative Doty's suggestions, we need to perhaps revisit that so that we're reinforcing its use for this project, but perhaps more broadly than it currently is stated.

Senator EVANS. Good.

Any questions, Representative Morrison?

Mr. MORRISON. Just to take just a second to first of all congratulate you, and thank the Governor, because here's a team in front of us all wanting to say something, but they're speaking with one voice. And that's been one of our problems in this whole enhancement process is that we've had so many voices we've not really gotten down to the key issue.

I agree totally that the agreement on the operation of the Easton facility is a major breakthrough, and I hope it reflects the changes we've been able to make in the last year or so on how we resolve some of these disputes. The nice thing about it, it was resolved right here at home, as opposed to attempting to do it in Washington, D.C., where it just doesn't work very effectively. So, congratulations.

Ms. RINIKER. Thank you. I'll pass that on to the Governor.

Senator EVANS. I would certainly add to that, and say that it is too seldom that we have a hearing in Washington, D.C. where a similar group of Federal agencies come together and speak with one voice. [Laughter.]

Next, representing the Pacific Northwest Power Planning Council, Kai Lee.

STATEMENT OF KAI N. LEE, MEMBER FROM THE STATE OF WASHINGTON, NORTHWEST POWER PLANNING COUNCIL, ACCOMPANIED BY RON EGGERS, NORTHWEST POWER PLANNING COUNCIL STAFF

Mr. LEE. Mr. Chairman and Representative Morrison, my name is Kai Lee, and I represent the State of Washington on the North-

west Power Planning Council. The State can thus speak with 1.1 voices today.

With me today is Ron Eggers of our Council staff.

We appreciate the opportunity to appear before you.

Mr. Chairman, you have played a key role in the continuing effort to enhance both fisheries and agricultural water supply in the Yakima River Basin. The Power Council has supported your efforts, and we are pleased to endorse once again the early implementation package of water conservation and resource development projects introduced by you as S. 1435 and by Representative Morrison in companion legislation pending in the House of Representatives.

As we have said before, the Council stands ready to consider elements of the early implementation package for funding by Northwest ratepayers as part of the Council's Columbia River Basin Fish and Wildlife Program. While I cannot predict the course of our public process, I should note that the Council has consistently supported the principle of off-site mitigation defined in the Northwest Power Act, a principle that has already led to substantial support of activities here in the Yakima Basin.

The Chairman is well aware that the Council has been particularly interested in rebuilding the fish runs of the Yakima since our fish and wildlife program was first adopted in 1982. Recommendations submitted by the fisheries agencies and tribes at that time identified the Yakima Basin as one of the most promising opportunities for increased salmon and steelhead runs in the entire Columbia drainage. It was already clear that the once-prodigious fish runs of the Yakima River had dwindled to alarmingly low levels—as few as 2,000 fish per year, far below the historical estimate of several hundred thousand adult salmon and steelhead that once returned to the Yakima Valley each year.

In response to those recommendations, the Council adopted an ambitious set of measures designed to improve fish passage, encourage efficient water use, provide adequate instream flows, increase fish production and provide additional water storage in the Basin. In each of these areas progress has been made. All would agree, however, that much remains to be done.

Perhaps the most dramatic progress has come in fish passage. Today juvenile fish screens or adult fish ladders have been installed at more than a dozen diversion dams. We anticipate that all major dams in the Yakima Valley will have operational fish passage by the spring migration of 1989. Fish runs have rebounded dramatically, to over 12,000 adult fish in 1986. All this is the product of hard work and cooperation among the State of Washington, the Yakima Indian Nation, the Bonneville Power Administration, the Bureau of Reclamation, and agricultural interests in the Basin—all spurred by the watchful diligence of the Pacific Northwest Congressional delegation.

Of course, progress on fish passage does not ensure progress in the other critical areas of need in the Basin. We do believe, however, that lines of communication opened in the course of fish enhancement can lay a foundation for unified efforts to stabilize the Basin's water supplies for all users.

This will not be a painless undertaking. It will require discussions of water resource conflicts and conservation opportunities that are both patient and creative, like the Easton operating agreement. It is worth noting that the Yakima Indian Nation has recently taken the lead in this and other arenas, initiating discussions of these matters with concerned parties in the agricultural community. We are impressed by this willingness to tackle hard issues. The Council hopes, and will do its part to encourage, all parties to take up the Yakimas' offer to work out fair and feasible solutions.

As you know, the Council approved just last week further planning on the Yakima-Klickitat Production Project. The project is an important component of the Council's fish and wildlife program. It is designed to test the planting of artificially reared fish to supplement natural runs of salmon and steelhead. Supplementation is a method of fish culture that may well play a key role in reaching the Council's goal of doubling the salmon and steelhead runs of the Columbia. Yet supplementation has not been rigorously tested, nor has it been uniformly successful when it has been tried elsewhere.

Accordingly, the Yakima-Klickitat project is not just another hatchery, as the Council has made clear. The project will provide, for the first time, a careful and systematic test of supplementation as a technique for rebuilding sustainable natural runs of salmon and steelhead. We are particularly interested in evaluating the impact of supplementation on genetic diversity, the relationship between enhanced production and harvest controls, and—not least important—the implications of supplementation for water supply in this basin.

We believe that the Yakima-Klickitat experiment is vital to the fish and wildlife program. The Yakima-Klickitat project, if successful, can substantially increase natural production in the Yakima Basin. Whether or not it enhances fish populations, however, the project will provide information of strategic importance to the larger Columbia Basin effort.

In our work on this project, we have given considerable thought to problems of water supply. The Council does not intend to exacerbate those problems. In last week's action approving pre-design work on the Yakima-Klickitat project, the Council emphasized—these are important words that I would want to underscore here—we emphasize that outplanting in the Basin's tributaries should not occur without assurances that adequate supplies will be available to sustain the fish to be outplanted. Those assurances will require some additional technical study, frank discussions between fisheries managers and irrigators, and voluntary—and I stress the word "voluntary"—agreements with landowners in the affected areas.

There is no point conducting fish production experiments with inadequate water supply. The biological challenge of testing supplementation is a sizable hurdle in its own right. An experimental program lasting more than 10 years requires clear and stable understandings about water supply.

We believe further that the two-year period of pre-design work could be used constructively by the Bureau of Reclamation and affected irrigators to develop a detailed, implementable plan for increased water conservation. Such an effort would help stabilize

water supplies, and it would also put the remaining fish passage and production work on a schedule more closely coordinated with the remainder of the Yakima Basin Enhancement Project.

In the meantime, work on the Yakima-Klickitat fish enhancement project is underway, whether early implementation proceeds or not. The Power Council supports S. 1435 because it advances water enhancement. Moving forward with both fish and water resource development makes sense to us.

We are, of course, willing to assist in the initiation of discussions and the development of cooperative arrangements. We trust that all parties see a compelling interest in having early implementation and the Yakima-Klickitat project proceed expeditiously.

Senator Evans, we hope you and Representative Morrison will be successful in advancing the early implementation legislation. The bill is a clear and positive sign of progress toward resolving the water supply difficulties that have plagues the Yakima River Basin for too long. Your success and your continued involvement will speed the day when reestablished salmon and steelhead populations can coexist peacefully and fruitfully with the agricultural economy of the Yakima Basin.

We would be pleased to answer your questions. Thank you for the opportunity to testify.

Senator EVANS. Thank you very much for your testimony. It's nice to see you representing the Council back in front of this committee.

What is the hope—or maybe it's expectation—of this planting in tributary streams, as a percentage or as a share in the ultimate goal that you seek in the Yakima River Basin? How much is that likely to do for us?

Mr. LEE. The hatchery project, the outplanting project, is designed to provide as many as 70,000 to 170,000 fish returning to the Basin. That's, of course, many times larger than the adult run today. So it's certainly clear that a project of this magnitude, if it works at all as expected, is going to have a major affect on the fish populations in this basin.

Senator EVANS. What is your current ultimate goal for adult returnees in the Yakima Basin?

Mr. LEE. The current—Ron, could you——

Mr. EGGERS. We have not established a goal for the Basin yet. An ultimate goal should be developed during the next 2 years when we'll complete subbasin plans for the 29-some-odd basins in the Columbia drainage.

Senator EVANS. Would that presumably be larger than the 70,000 to 170,000 extras that you're talking about from this particular project?

Mr. EGGERS. It could very likely. The current estimate is based upon existing water conditions, and so any additional storage and improvements in instream flow conditions could appreciably contribute to larger runs.

Senator EVANS. Is it your view that current—leaving aside the particular bill we're now talking about—but the projects that are now under construction and which have been completed, would that, in your view, sustain an adult return of 70,000 to 170,000 that you're talking about?

Mr. EGGERS. Based upon the current estimates, we believe it would.

Senator EVANS. So as we move for further enhancement, then the potential is presumably even larger?

Mr. EGGERS. It appears to be; yes.

Mr. LEE. Senator, I think it's important to stress that a lot of these numbers are new territory biologically. Certainly, runs of those sizes have not existed in the Yakima Basin for decades. That's why I laid so much stress on the experimental nature of what we're undertaking.

On the other hand, the Council is determined, over the next 20 to 30 years, to work diligently to double the fish runs of the Columbia River Basin from today's level of 2.5 million up to a sustainable level of about 5 million per year. Everyone agrees that the Yakima Basin is one of our leading opportunities. That's one reason why the numbers that you see, while very large from the standpoint of this basin, really are making only a proportionate contribution to what can be done in the Columbia system as a whole.

Senator EVANS. How long do you expect that it will take to conduct the experiment in planting out, to be relatively certain of the results?

Mr. LEE. The basic problem is that once you have put the fish out, it takes them 5 years to come back; so we estimate it will take between 5 and 10 years to accumulate data that are statistically meaningful. I would say that it's closer to 10 than 5.

Senator EVANS. Your intent is to plant each year, so that there will be a run that will come back each year?

Mr. LEE. Correct. And the basic approach would be to plant in different parts of the drainage each year, so that we could distinguish between affects that were caused farther downstream, below the mouth of the Yakima, from those that occur here in the Basin.

Senator EVANS. Good.

Representative Morrison?

Mr. MORRISON. I'd like to explore your underlying words about outplanting, because this is a very significant issue with particularly many of my constituents in the Kittitas County area. You say outplanting in the Basin's tributaries should not occur without assurances that adequate water supplies will be available. Would you expand on that just a little bit, because occasionally water supplies are made available with court action, as opposed to concurrence among local landowners.

Mr. LEE. Representative Morrison, court actions are difficult to schedule in an experimental protocol. [Laughter.]

I think that what we're stressing here is that in the pre-design period, between now and 1990, we would like to see a serious and committed effort on the part of all interests in this basin to see how much can be done by way of voluntary agreements; voluntary agreements that—and I think the point I want to stress is that we're talking about voluntary agreements for water use and access across lands to conduct our experiments.

The Council does not believe that it is necessary to reach ultimate questions of water rights, and those questions of water rights are the ones that are usually adjudicated. What we're talking about is agreements limited in time and space, with specific under-

standings about what happens before, during, and after the experimental period, that are agreeable to all the parties. That will take a great deal of creativity. That's why we're so encouraged by the Easton operating agreement—because I think that's a demonstration of that kind of creativity—and why we are so heartened by the activities of the Yakima Nation which has, I think, sought to move in a direction that has not been seen, or has not been perceived to be part of how the Yakima Nation wants to move forward, in some period of time.

So we are at the beginning of a new phase that I think is a very promising one; but I see it as promising, against the background of the water enhancement project.

Mr. MORRISON. We've been pushing you for some time to maybe single out the area of the Yakima Enhancement program so we could get your numbers on what you really expect to produce. Your two-year answer which you've just provided, in fact, strings us out. We would much rather have that response more quickly. Is there any way we could speed that up? Because it's a key element of our moving ahead with the enhancement program.

Mr. LEE. Let me respond this way, Representative Morrison. I think there are two sets of issues before us that I think are problematic here in this basin. The first are what I would call fishery management questions, and the second are water resource questions.

The fishery management questions will be resolved on a fast-track schedule some time in 1988. I would expect about a year from now is all that's required to get the fishery management entities of the Yakima Nation and the Washington Departments of Wildlife and Fisheries to come to a common understanding about what it makes sense to do in terms of the biological part of our experiment.

That leaves the question open of how--particularly in the Kittitas Valley tributaries—whether those experiments can be run with the cooperation of the landowners there. That's something that I don't think that we can anticipate can be concluded on a well-defined schedule.

But I think most of that—the point I want to emphasize here is that the operation of the Yakima-Klickitat project, more than 80 percent of it—isn't that right, Ron?

[Mr. Eggers nodded affirmatively.]

Turns on allocations of fish and uses of waterways over which there is not a lot of controversy.

So I think we can get pretty definite numbers back to you in the next 12 months. And that would be, you know—if that's of use to the water enhancement project, we will try to expedite that even further. It just takes a certain amount of time to iron out questions of fishery management. I'd say that they're easier than the ones of water resource management.

Mr. MORRISON. I would hope so. Thank you. I think any time-change in that would be most welcome.

Senator EVANS. Thank you very much.

Our next panel is Melvin Sampson, Tribal Council Chairman of the Yakima Indian Nation.

Although we know them well, Mel, would you like to introduce for the record your two compatriots?

STATEMENT OF MELVIN SAMPSON, TRIBAL COUNCIL CHAIRMAN, YAKIMA INDIAN NATION, ACCOMPANIED BY TIM WEAVER, LEGAL COUNSEL, YAKIMA INDIAN NATION; AND BOB TUCK, BIOLOGIST, YAKIMA INDIAN NATION

Mr. SAMPSON. Yes. First of all, Senator, I appreciate the opportunity on behalf of the Yakima Indian Nation to testify here before the Subcommittee on Water and Power, and we likewise extend our appreciation to Congressman Morrison.

Accompanying me here are Yakima's legal counsel, Mr. Tim Weaver, and one of our biologists, Mr. Bob Tuck.

We have a prepared statement here we would ask to be entered into the record, and afterwards we would be glad to entertain any questions that you may have.

Senator EVANS. The full statement will be entered into the record.

Mr. SAMPSON. I appreciate it.

My name is Melvin Sampson. I am the Chairman of the Tribal Council of the Confederated Tribes and Bands of the Yakima Indian Nation. Thank you for the opportunity to testify today on S. 1435. The Yakima Nation has several concerns I would like to share with you today.

First, I have attached to my testimony for inclusion into this record, the testimonies of Levi George and Robert Olney on S. 2519, the forerunner of this bill. After reviewing those testimonies, I find that they are appropriate for inclusion into this hearing record. They adequately express many of the Yakima Nation's continuing concerns about this legislation. My testimony will supplement those comments and discuss new areas of concern on this bill.

As you know, the major thrust of the enhancement program was to provide waters for adequate instream flows, supplemental irrigation to existing lands, and provide additional waters to the Yakima Indian Reservation. This legislation, as the early phase of the enhancement program, was intended as step one of that overall process. The Yakima Indian Nation is concerned that the legislation as drafted to include a storage project at Cabin Creek, may result in this bill being our only chance at convincing Congress to fund storage construction in this basin. If that occurs, then the provisions of this bill are inadequate to assure fulfillment of the initial purpose of the enhancement study.

This is particularly true if Cabin Creek Reservoir is the only storage built under the enhancement study. It does not provide sufficient waters to provide optimum flow needs, let alone provide supplemental irrigation water. It provides the flows in the Yakima arm of the system, creating an even greater imbalance than presently exists, thereby increasing operational difficulties. The inclusion of Cabin Creek in this bill, in our opinion, may prejudice the opportunity to further explore expansion of Bumping Lake, a project located on the Naches arm of the system, thereby providing a better balance in the system, and which will provide much more water for instream flows and supplemental irrigation. Bumping Lake enlargement should continue to be a focus of the enhancement legislation as it provides a better solution to many of the Basin's problems. Careful consideration must be given to insure

that the Bumping Lake enlargement option is not foreclosed by virtue of this bill.

If storage is to be constructed under this bill, the language needs to clearly reflect the purpose of the stored water, and specifically allocate those waters for their designated purposes, as was proposed in the previous Bumping Lake enlargement legislation. Leaving that allocation up to the State permit process after construction, may not adequately protect waters for instream users from diversion for other purposes.

Also, if Cabin Creek is to be included, the bill should specifically indicate that that reservoir is not intended to be the sole storage aspect of the overall enhancement project. It should further specifically state that Cabin Creek does not provide flows which have been determined to be optimum flows under the enhancement study, and that other measures, including additional storage, may or will be necessary to reach those flows.

The bill provides in section 1(b) that no funds for storage construction shall be appropriated prior to the filing of a conservation plan. The bill should be amended to provide that the plan be tied to funding of irrigation district rehabilitation projects, rather than the storage funding. The net effect of 1(b) as drafted is to hold instream flows to be provided by storage as a hostage, with release contingent upon the filing of the plan. This provides no incentive to irrigators to prepare a plan. A better method is to withhold rehabilitation funds until the plan is filed, and provide assurance to irrigators that they will in some manner receive additional benefits for rehabilitation of their systems.

The bill as drafted does not adequately deal with the protection of waters intended for instream flows. The Yakima Nation is concerned that those waters, once in the river, may be diverted by irrigators under a claim of a prior right. The bill needs to be amended to insure that waters intended for instream flow purposes remain in the stream. We have this same concern regarding waters which are stored for instream flow use. The bill must clearly set forth an acceptable instream flow purpose of those waters, and devise a means for assuring their protection.

The bill presently provides, in section 4, that some but not all of these elements will become part of the Yakima Project. The Yakima Indian Nation requests that the bill be amended to make all aspects of section 4 elements of the Yakima Project.

Once again, this bill excludes any provision for solving the serious instream flow problem experienced below Wapatox Dam on the Naches River. This problem will only increase as the numbers of fish returning to the Basin increase. This legislation is a valid tool to deal with this problem, and should be amended to include a provision for replacement power for the Wapatox power plant so that the increased flows can be provided.

Section 9 of the bill discusses the Federal/non-Federal matching funds necessary for this project. As you know, the Bonneville Power Administration, through its electric ratepayers, will have spent approximately $20 million in the Basin on fish passage improvements. Further, it will have spent approximately $20 million on the Yakima Hatchery, which is an integral part of the Power Planning Council's Fish and Wildlife Program.

The Yakima Nation then believes that these amounts, together with State funds expended on other projects such as the Naches Dam, qualify as non-Federal expenditures, and should be specifically included as a portion of the non-Federal funds required for the match.

Senator, that concludes our prepared statement.

[The prepared statement of Mr. Sampson follows:]

TESTIMONY OF MELVIN SAMPSON
BEFORE THE SUBCOMMITTEE ON WATER AND POWER OF
THE SENATE COMMITTEE ON ENERGY AND NATURAL RESOURCES
FIELD HEARING - YAKIMA, WASHINGTON - OCTOBER 19, 1987

My name is Melvin Sampson. I am the Chairman of the Tribal Council of the Confederated Tribes and Bands of the Yakima Indian Nation. Thank you for the opportunity to testify today on S.1453. The Yakima Nation has several concerns that I would like to share with you.

First, I have attached to my testimony for inclusion into this record, the testimonies of Levi George and Robert Olney on S.2519, the forerunner of this bill. After reviewing those testimonies, I find they are appropriate for inclusion into this hearing record. They adequately express many of the Yakima Nation's continuing concerns about this legislation. My testimony will supplement those comments and discuss new areas of this bill.

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If storage is to be constructed under this bill, the language needs to clearly reflect the purposes of the stored water, and specifically allocate those waters for their designated purposes, as was proposed in the previous Bumping Lake enlargement legislation. Leaving that allocation up to the State

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Once again this bill excludes any provision for solving the serious instream flow problem experienced below Wapatox dam on the Naches River. This problem will only increase as the numbers of fish returning to the basin increase. This legislation is a valid tool to deal with this problem and should be amended to include a provision for replacement power for the Wapatox power plant so that increased instream flows can be provided.

Section 9 of the bill discusses the federal--non-federal matching funds necessary for this project. As you know the Bonneville Power Administration, through its electric ratepayers, will have spent approximately $20 million in the basin on fish passage improvements. Further it will have spent approximately $20 million on the Yakima Hatchery, which is an integral part of the Power Planning Council's Fish and Wildlife Program.

The Yakima Nation believes that these amounts, together with State funds expended on other projects such as the Naches Dam, qualify as non-federal expenditures and should be specifically included as a portion of the non-federal funds required for the match.

Thank you.

STATEMENT OF ROBERT OLNEY, CHAIRMAN, IRRIGATION COMMITTEE, TRIBAL COUNCIL, YAKIMA INDIAN NATION

Mr. OLNEY. Mr. Chairman and members of the committee, my name is Robert Olney. I am an elected member of the Tribal Council of the Yakima Indian Nation, and serve as chairman of the Irrigation Committee, accompanied by Tribal Council chairman, Melvin Sampson, and Levi George, chairman of the Tribal Council Fish and Wildlife Committee.

I wish to express today the feelings of my tribe concerning S. 2519, or as we call it, the nonstorage bill.

The Yakima Indian Nation is a confederation of 14 tribes and bands of Indians united as one sovereign nation under our treaty of 1855 with the United States. Prior to treaty times our people call lived on the Columbia River itself, or on one of its tributaries.

Unlike many other Indian tribes today, we continue to reside on and make continuing use of our ancestral lands. Our people continue to resort to the Yakima River and its tributaries for our fish, natural foods, medicines, and for preservation of our cultural and religious hertigage.

The Yakima Nation is also the largest user of irrigation water from the Yakima River, with approximately 154,000 acres presently under irrigation on the Yakima Reservation.

Prior to the coming of the white man, the room where we sit today, together with 11 million acres of central and eastern Washington, was under the dominion and control of the Yakima Tribe. The area ceded by the United States from the Yakima people in the treaty of 1855 stretched from the Columbia River to north of Lake Chelan, from the Cascade Crest to the Palouse. Dividing this vast area was the Yakima River, with its great fish, wildlife, and plant resources providing food, medicine and shelter to our people.

Prior to irrigation development, six species of Pacific salmon, together with steelhead, spawned in the Yakima Basin.

Our people followed these fish from near the mouth to the heardwaters above the lakes, using that resources for fresh food and preserving much of it for winter use. We made use of the abundant wildlife attracted by the waters of the river, and harvested the many wild foods that grew in these valleys. Our horses flourished in the rich grasses that grew here. Our people did not lack for food or shelter thanks to the bounty of the land and rivers.

Water is sacred to our Yakima people, without it we have no fish, no wildlife, no roots, no berries, and none of our natural medicines. We would have no crops, and indeed we would have no blood.

Our forefathers believe that our Treaty would survive for as long as the Sun shines, the mountain stands, and rivers run, and our people would exist only that long as well. Without water, my people and culture would cease to exist.

When our Yakima people signed the treaty of 1855, we agreed to cede to the United States nearly 11 million acres of our land so that it could be opened for settlement and development. At the time of signing of the treaty, our Indian people had no idea of the extent of the future development coming.

The river ran full, natural and pure. Fish and wildlife flourished, and there was plenty for everyone. The treaty signers had no concept of the size of cities and the extent of industrial and urban development they faced. They did not know that dams, diversion, and pollution would diminish and befoul the river.

What my forefathers did understand was when the treaty was signed, the Yakimas retained for themselves everything not specifically granted to the United States in the treaty. This included our reservation, and full use of the entire reservation, our water in quantities adequate to fully use our reservation for all purposes, including irrigation, our rights to fish at all of our usual and accustomed places, and the right to have adequate water available for all phases of fish life. These rights, both on and off the reservation, were retained by the Yakima people. They remain ours to this day.

I would like to address the legislation primarily from the irrigation standpoint.

Mr. Levi George, chairman of the Fish and Wildlife Committee, will discuss the fish and wildlife issues in his testimony.

The Wapato irrigation project, located on our reservation, is the largest of all Yakima project diversions. It is also one of the oldest districts, having been initially constructed in 1894. At the present time, there are 149,320 acres under irrigation within the Wapato irrigation project.

The United States intended that this project fulfill its promise to our people to fully develop the agricultural nature of our reservation as promised in the treaty. Unfortunately, this has never come to pass.

Many thousands of irrigable acres owned by the tribe and individual members stand idle because they are not within the confines of the Wapato project's delivery system or capacity.

Further, we are not receiving our full share of waters guaranteed in our treaty. These are serious problems for our people.

Equally serious are Indian lands within this project, lands clearly due the benefits of the Government's trust responsibility which stands in jeopardy of inadequate supplies of water due to proration.

In a water-tight year, these lands may be cut back on supply along with other non-Indian proratable lands. This was not the right retained by us in our treaty. We retained the right to adequate waters for full development of all our lands.

Further, the condition of the Wapato project's canals and delivery system inhibit the most efficient delivery of waters to our lands. Clearly a rehabilitation of the system can provide more water for our use. S. 2519 provides the opportunity to rehabilitate our project to make it more efficient.

We appreciate the language of the bill making it clear that any water savings realized can be used within the reservation in total, not just with the physical boundaries of the Wapato project, and that they may also be used for fish and wildlife enhancement and protection.

We request that you make a legislative record to clearly reflect that these uses are the intent of this legislation and that the Department of the Interior recognize and agree that these uses are authorized. We have, in the past, had difficulties with our trustees in administration of this project. We trust that they will respect your intentions of drafting this legislation in its present form, which gives us the flexibility to use water savings in areas where we determine they are needed. We also understand that the legislation as drafted, in referring to the Leavitt Act in section 3(b), reflects your intention that the Wapato project improvements will not be chargeable to the tribe or to individual Indians on these allotments, and that the Secretary of the Interior shall respect that intent.

It is necessary to amend the preamble to the bill to reflect that the Wapato project is not a Bureau of Reclamation project, and should be treated separately.

We understand that it is the intent of this legislation that none of the actions to be taken be construed as in any way affecting the treaty reserved rights of the Yakima Indian Nation. While the bill reflects such an intent, the legislative history must also reflect that intent.

With regard to the nonreservation aspects of the bill, we have the following comments and requests.

One, that the bill and its history remain clear that any off-reservation water savings, other than for fish and wildlife, be used solely to supplement currently irrigated lands legally located within existing irrigation district boundaries as defined by records of the Bureau of Reclamation.

Second, that the mandatory language on water to be used for fish and wildlife protection be maintained.

Third, that the bill and its history clearly reflect that nothing in the bill is intended to allow for increased diversion of waters from the river or for expansion of off-reservation irrigation.

Fourth, that the bill remain clear that the water gained by the Kachess-Keechelus pipeline and the raising of Cle Elum Dam are not in any manner replacement water for flows provided by the 1980 Quackenbush decree in *KRD* v. *SVID*.

Fifth, that a provision be added making it clear that the Yakima Nation's support for Senate bill 2519 does not reflect an endorsement of the total Yakima Basin water enhancement project as presently proposed. The Yakima Nation is not, at the present, prepared to make such an endorsement.

Also, I didn't have on the written statement here, but we had some photographs which we would like to send within the next week or so regarding the latest fish kill at the Sunnyside Dam. It's always good, a picture is worth a thousand words, to show you that the continuing problems that we have had over the past years are still existing as recently as within the last few weeks.

I would like to thank you for the opportunity to share our views with you.

Senator EVANS. Thank you very much.

We will be happy to recieve, for the files, those photographs.

Mr. George.

STATEMENT OF LEVI GEORGE, CHAIRMAN, FISH AND WILDLIFE COMMITEE, TRIBAL COUNCIL, YAKIMA INDIAN NATION

Mr. GEORGE. Thank you, Senator Evans, Congressman Morrison, and concerned people.

Mr. Chairman and members of the committee, my name is Levi George. I am an elected member of the Tribal Council of the Yakima Indian Nation, and serve as chairman of its Fish and Wildlife Committee.

My fellow councilman, Robert Olney, has discussed with you the tribal concerns regarding the irrigation aspects of S. 2519.

I wish to discuss with you today the concerns of the Yakima Indian Nation as regards the fish and wildlife benefits and concerns of S. 2519.

First, I would like to take this opportunity to thank Senator Evans and Congressman Morrison for their persistent and tireless efforts in assuring the rehabilitation of passage facilities in the Yakima Basin. The Yakima Nation sincerely applauds your efforts on behalf of the fish.

Prior to the advent of irrigation diversions in the Yakima system, upwards of 500,000 adult salmon of all species came up our river. While factors other than irrigation may have had some impacts upon these runs, irrigation practices, including storage dams, diversion dams, and increased pollution spelled drastic reductions, and in some cases, extinction of important salmon species. The building of head water storage dams without fish ladders, particularly at Cle Elum, Kachess and Keechelus Dams, immediately destroyed our tremendous sockeye runs. Thermal pollution, low flows, and in many instances, total dewatering of sections of the river between Union Gap and Prosser made extinct our once large runs of summer chinook.

Tributary development and diversion coupled with low flows and inadequate protection of spawning grounds have reduced our coho salmon runs to a trickle. Fall chinook, in small numbers, have hung on in the lower stretches of the river. Spring chinook were nearly extinct in the system by 1980. Thanks to Federal court action, a more cooperative attitude, including the effort of Congress on behalf of fish, we are now enjoying a rebounding of our spring chinook runs.

This year at Prosser Dam we have counted approximately 9,000 adult spring chinocks, a figure approximately nine times what the run was in 1979. While this is marvelous news, the specter of inadequate passage and inadequate waters to continue our success still hangs over our fish runs.

This spring presents a graphic example of the problems still being experienced with anadromous fish in the Yakima Basin. Downstream bound spring chinook smolts, the result of excellent

spawning in 1984, from one of our first increased runs, encountered low flow condition in their migration to the sea.

Yakima tribal biologists were predicting a record high count of spring chinook smolts at our Prosser counting station as a result of the 1984 spawning ground surveys. Unfortunately, this record run did not appear. Tests and studies made it clear that inadequate spring flushing flows, due to low snow pack, unusually warm weather earlier in the year, and concerns over adequate storage for later irrigation, resulted in tremendous losses due to predation and other flow related causes.

Tribal scientists noted immediate surges in smolts counted passing Prosser when flows came up. Unfortunately, these flows were too little too late, and consequently the increase contemplated from the 1984 spawning run will be significantly reduced from preseason predictions. Obviously we have not solved all of the problems for anadromous fish in our basin.

From a fish and wildlife standpoint, the Yakima Indian Nation supports the concept and intent of S. 2519. S. 2519 provides a starting point from which to work toward provisions of adequate instream flows throughout the Yakima Basin. The Yakima Nation is concerned that the bill clearly reflects the intent of its drafters that the actions to be taken are only the beginning of attempts to provide adequate instream flows to protect, mitigate, and enhance our salmon runs. The Yakima Nation is further concerned that the instream flow figures contained in the Bureau of Reclamation's preliminary evaluation of these nonstorage elements are inadequate to fulfill the fishery needs in the basin.

The Yakima Nation is also concerned that in the areas where the bill requires subordination of power production at Roza and Chandler powerhouses that subordination and the amount of instream flow to be provided not be placed solely at the discretion of the Bureau of Reclamation, and that the Bureau be required to seek and implement the recommendations of tribal fisheries' scientists regarding the amount of flow needed in a given river stretch at a given point in time.

W do not feel that such a provision is unreasonable in light of the fact that the generation of power in the basin is clearly secondary to the treaty secured right to have the fishery resource protected and enhanced. We would welcome the opportunity to present the committee, for inclusion into the record, our analysis of the flows needed below Prosser and Roza Dams.

I have present with me today, Mr. Robert Tuck, who would be happy to answer questions concerning that issue.

One issue not covered is the serious low-flow problems experienced below Pacific Power and Lights' diversion at Wapato Dam on the Naches River. Very low flows occur here every year, and seriously impede passage and rearing in the Naches River. This is a non-Federal project which creates a complex situation.

We ask that your staff consider amending this legislation to authorize the provision of Federal replacement power to Pacific Power and Light during extreme low flows.

A secondary concern regarding instream flows is the water to be saved by the rehabilitation of the Sunnyside Valley Irrigation District, and the consequent use of that water for flows at Sunnyside

Dam. Once again, we have questions as to the sufficiency of those flows.

Tribal evaluation of the increase in flows to be achieved by the Sunnyside rehabilitation indicates that as little as 18 cubic feet per second would be added to the river flow at Sunnyside Dam, depending on the pattern use of those waters. Clearly further study and review of this issue is necessary.

The Yakima Nation appreciates the recognition by this committee of the need for enhanced flows below Roza, Sunnyside, and Prosser Dams. Based upon the information contained in the Bureau's preliminary evaluation, however, the Yakima Tribe is very concerned that the language of this bill clearly reflects that nothing in it affects the Yakima Nation's right to ensure additional flows from power subordination or other means in the event that flows provided are inadequate.

The Yakima Nation requests that the power subordination portions of the bill clearly reflect that nothing therein affects the treaty rights of the Yakima Indian Nation to ensure adequate flows. The Yakima Nation further requests that the bill and its history be clear that the waters saved by the Sunnyside Irrigation District's rehabilitation in no way reflect an alternation or diminishment of the Yakima Nation's treaty right to additional augmentation of flows below Sunnyside Dam.

The Yakima Nation applauds the proposal for modification of the gates at Cle Elum Dam and the Kachess Lake to Keechelus pipeline. It is our belief that those factors will provide additional flexibility in the system both for irrigation use and the continued efficiency of the flip-flop system.

Further, the Yakima Nation applauds the drafters of the bill for providing that those elements are for irrigation purposes and are in no way intended to be payback waters for waters used for the protection of fish and wildlife in the Upper Yakima Basin. There is no such payback due to irrigation for two reasons:

No. 1, the fishery right is a prior right and, therefore, waters used belonged to the fish prior to the advent of irrigation; and

No. 2, no payback is due as the use of water for flop-flop purposes has not cost irrigation interests a drop of water since their instigation in 1980. In fact, the flip-flop operation has been a marvelous success, and has been a key factor in forging cooperation among all competing water interests in the basin. The Yakima Nation and its non-Indian neighbors have used the flip-flop to prove that in fact it is possible to work together on difficult natural resource issues and produce significant results. The Yakima Nation hopes that cooperation can continue in this most difficult area.

As noted by my fellow speaker, the Yakima Nation wishes the bill remain crystal clear that any savings of water in areas off the Yakima Reservation are not used for construction of new irrigated lands, but are to be used solely for supplementation of existing development.

I thank you once again for the opportunity to speak.

On behalf of myself and the Yakima Indian Nation, I would request that the record remain open for a period of no less than 3 weeks to allow for supplementation of our testimony.

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If I may give a little addition to my testimony, written testimony.

True, these are some God-given things we're talking about. The Creator gave us water.

There is a limited supply for everything. The trees have limited water. The main thing you have to understand is that the main water is for us to use, to drink, and the water is for the fish.

It is very important to the tribe, as well as for you, that you came to our country.

Just to add, I heard two speakers say this morning that their grandfathers came to this country.

Mr. Baugher is my friend, so just kind of jokingly, I think when his grandfather came to this country, my grandfather was standing by the river fishing for a fish.

Thank you.

Senator EVANS. Thank you very much, and his grandfather had been doing the same thing before.

Let me first ask Mr. Olney, you mentioned in your testimony that you request that you make the legislative record clearly reflect that these uses are the intent of the legislation and that the Department of the Interior recognize and agree that these uses are authorized. We have in the past had difficulties with our trustee in administration of this project.

We say in the bill, section 3(b), that water savings resulting from construction and operation of such facility shall be available for irrigation purposes and for the protection and enhancement of fish and wildlife within the boundaries of the Yakima Indian Reservation.

We do not say anything further about how those decisions as to which use should be preferred are made.

Are you suggesting that we add language to make that more specific, and who would you suggest make those determinations?

Mr. OLNEY. Well, the Wapato irrigation project itself, its water rights, are based upon our people's rights to the use of water for irrigation.

In 1913, at the joint congressional investigation, it was the Yakima Indians at that time who were being unjustly deprived of their fair portion of the natural flow rate of the Yakima River. At that time, the congressional investigation established 720 CFS as a minimum flow during low water to be our natural flow right. That was based upon 40 acres of each 80-acre Indian allotment, and after that, through two congressional acts, one for 250,000 acre-feet of storage, and the other for 100,000 acre-feet of storage, to make up the difference for that other 40 acres.

These are irrigation rights from the storage reservoirs that the United States purchased, because our water rights to these acreages were not fully covered in that joint congressional investigation.

Over the years, as the Wapato project has gotten their water right from the flows of the Yakima River, we have had some streams that totally start on the reservation and they go down into the Yakima River; the Toppenish, the Simco, the Satus, the Agency Creek, Matom, and some other minor tributaries that flow through the Wapato irrigation project.

Senator EVANS. We thank you very much for the statement.

Let me return to several questions—or perhaps comments as much as questions:

I know of your concern as far as the potential of Cabin Creek as maybe being the last of the storage projects. That certainly is not my intent, nor is it, I'm sure, Representative Morrison's intent. The idea here in including Cabin Creek was to see if we could take a bigger second step right now, and advance further than we might if we didn't add that portion of the total project. But with every intent that we'd come back again, you know, for the adequate final storage facilities, or a combination of storage, conservation, and whatever other elements, that would give us finally the adequate water for instream flows, and the adequate water to meet all the irrigation needs of the Valley.

I guess there's no way to be certain as to what will happen in the future in terms of Federal funding, and I guess what we ultimately will have to do is balance off anything we might do now, and the benefits that that would bring earlier, against an affect it might have on future funding or future projects. But certainly it would not be my view that we ought to move ahead on this and then slow down in any respect on further projects, or further storage required to get us everything we ultimately figure we need.

On section 4, you say, "The bill presently provides in section 4 that some but not all of these elements will become part of the Yakima Project.

"These elements" being what? Section 4 deals with two projects: "The modified radial gates at Cle Elum Dam, and the K-K pipeline shall become a feature of the existing Yakima Project." And you're asking that which other elements be included?

Mr. WEAVER. Well, all of the elements, Senator, including Cabin Creek, if constructed. I guess we felt there was some ambiguity there in the bill.

Senator EVANS. OK.

Mr. WEAVER. We didn't understand why they weren't all included as parts of the Yakima project.

Senator EVANS. Certainly I think it would be logical, and we would want to include Cabin Creek once it's selected as an integral element. I think what we were trying to do in the bill in terms of Cabin Creek was to put it out there. It was a relatively new idea, or a new location, compared with some of the others that had been talked about for many years. We wanted to see just what kind of reaction there was, to see if it did make sense. And I hope that by the time we get to the end of the hearing we'll have some better ideas as to whether or not that does make sense in this whole effort.

But certainly, any project that we move ahead on, should be, and ought to be included as elements of the Yakima Project. I don't know if there are others. Cabin Creek we left out simply because we weren't at the point yet where it was, you know, a definite project. Are there any others that you're aware of that should be included, that are not now parts of the Yakima Project?

Mr. WEAVER. No, I don't believe so. The inclusion of, for instance, the Roza Re-regulating Reservoir as part of the, quote,

"Roza Division"—the Roza Division is a part of the Yakima Project.

Senator EVANS. Yes. We may want to——

Mr. WEAVER. We simply weren't certain as to why those two were picked out to be included; whether there was an intention specifically to exclude others, or——

Senator EVANS. No, I don't believe so. Certainly not as far as I'm concerned. I think it was put in there as an effort to insure that those specific things were included. The K-K pipeline obviously is a brand new element or project. Cabin Creek, if we were to move ahead on it, certainly ought to be included. And we'll take another look at that and make sure that we haven't left anything out, because the intent is not to leave anything out.

Mr. SAMPSON. This is an additional comment, Senator, that we don't specifically oppose Cabin Creek, you know. But it isn't our number one preference, from the standpoint of if there's a choice.

Senator EVANS. Surely.

Mr. SAMPSON. It doesn't—at least as a case in being, Bumping Lake would obviously in our opinion be—if there's going to be some storage element in early enhancement—which, you know, there basically wasn't to begin with, and now there's storage element in early enhancement—well, then, we feel that it should be Bumping Lake.

Senator EVANS. Okay. I think that the real effort here was to see if there was another alternative that would be easier to move ahead on, and to move ahead more quickly. We have had some problems brought up when we talk about Bumping Lake, from time to time. [Laughter.]

What we're seeking, really, is to get the job done, and to get an adequate amount of storage at the appropriate places in the Basin. I think that's something we also have to keep in mind: that the storage has to be in an appropriate part of the Basin so it can really feed the necessary users and keep the stream flows where they should be. And what we have to find is that difficult to find combination of projects that will do the job, and projects which we find we can actually move ahead on and construct.

The other question was an interesting one, your suggestion that the bill should be amended to provide that the plan be tied to funding of irrigation district rehabilitation rather than to storage funding. Is that to help insure that we'll move ahead and get the conservation plan accomplished?

Mr. WEAVER. Yes. Two reasons, Senator. One is that at least the original contemplation of the bill, starting back with Bumping Lake and working forward through last year's bill, was that—the big problem here is the need for instream flows and the inability of the Basin to provide for those, and also for the much-needed irrigation flows for all parties.

It's the position of the Yakima Tribe that the sooner we get those instream flows provided for—and it appears to us that at the present time storage is the quickest way to do that—that you're going to hold up provision, or potentially hold up provision, of the most important need of all of us in the Valley, to prevent a loss of irrigation waters from instream flows. We've heard testimony about lawsuits taking someone's water, and those sorts of things.

We're not going to debate that, but everyone recognizes that instream flows are a problem.

We feel that you need to go with the storage to provide for those instream flows. I believe that you can amend the bill to provide for benefits such as—one of the previous witness talked about water leasing—I believe it was Senator Newhouse—water sales, water transfers, all sorts of benefits that are happening throughout the West to benefit irrigators who do rehab their systems. And I think those benefits are an incentive, a very real incentive, to get the conservation plan going.

Our concern—and this isn't intended as criticism; it's simple human nature—if, for instance, irrigation districts that have a high priority don't see any benefits that they're going to get from a potential storage project, they have no incentive whatsoever to go ahead with the conservation plan. And as a result, we hold up the other element that both the Tribe and other proratable irrigators need very much, which is the provision of additional waters for instream flows.

Senator EVANS. I see. The bill, the way it's worded now, does give the responsibility to the Secretary, in cooperation with appropriate Federal, State, and local entities, to develop a plan for water conservation. It certainly would be my effort to insure that the Secretary move ahead as promptly and as expeditiously as possible on that. It may well be, we perhaps ought to take a look at what provisos we put in there that need to be accomplished before we move ahead on additional storage. It's an interesting idea.

I certainly, however, want to let everyone here know that it's my hope that we would move ahead as rapidly as possible. And frankly, it doesn't even take passage of this legislation to get the Bureau to start making the kinds of analyses that I mentioned, which would at least let people know what the potential is out there for benefits through water conservation. I think we ought to move promptly in that field.

Mr. WEAVER. I think one point that's important for you to know, and everyone here to know, is that under this proposal by the Yakima Nation, that includes the Wapato irrigation project, which is in need of rehabilitation at least as badly as anyone in the district.

Senator EVANS. Sure.

Mr. WEAVER. So we're not asking that someone else have their money held up while someone else goes forward.

Senator EVANS. Sure.

Mr. WEAVER. This is an across-the-board situation.

Senator EVANS. Good. Representative Morrison?

Mr. MORRISON. Perhaps not a question, Senator, but to just reaffirm what you've just indicated on Cabin Creek. It was a judgment call to include it in the bill, and we thought it had some highly-desirable characteristics that we wanted to bring to the public, and get their reaction. As we've already heard from the Bureau, it's taking them a little longer to get down to bedrock on that particular project. You know, we would hope that it stays, but in no way was that to satisfy the long-term needs of the project.

I just want to also agree with you completely as far as local cost sharing, and the fact that Northwest ratepayers have put money

into the pot for part of this process, and we certainly should get credit for that.

Thank you for your good ideas.

Senator EVANS. Thank you very much. Panel number 4, Jim Trull, Secretary/Manager of the Sunnyside Valley Irrigation District; Paul Chasco, Secretary/Manager of the Kennewick Irrigation District; Gene McIntire, Chairman of the Board of the Roza Irrigation District; and Barb Lisk, a grower from the Roza Irrigation District.

We welcome this panel to the hearing, and we will go in the order of introduction, starting with Jim Trull.

Jim.

STATEMENT OF JAMES W. TRULL, SECRETARY/MANAGER, SUNNYSIDE VALLEY IRRIGATION DISTRICT

Mr. TRULL. Good morning Senator Evans, Congressman Morrison, Mr. Brown.

My name is James W. Trull. I'm the Secretary/Manager of the Sunnyside Valley Irrigation District.

I have submitted a written statement, and if that will be entered into the record, I will just summarize briefly in the interest of time.

Senator EVANS. Surely.

Mr. TRULL. I'd like to cover four points: water conservation, storage, reaching a consensus, and an urgency in proceeding ahead.

When we talk about a water conservation program, we're not talking about embarking on a new program. We're talking about embellishing an existing program. Our district is certainly not unique, but I'll mention some of the things we've been working on; and it's an example of what a number of other districts have been doing as well.

Since 1977, when we had the last major drought, we have piped probably 50 miles of open laterals. We've replaced hundreds of structures, water measuring devices, water control structures. We've done considerable work on our main canal. The headworks has been replaced. We've done extensive work throughout the system, all of which relate in some degree or another to water conservation and water management techniques.

We have been doing this basically with our water users' own money, except for Referendum 38 grant funds. We've been allocating over 25 percent of our annual budget to these kinds of projects. To make a water conservation program more extensive will require additional funding and other incentives.

We need to also resolve the water transfer issue. That is one that troubles us within the Sunnyside Division as far as the current language. We stated our support at the last field hearing for the canal automation, with the savings going for instream flow uses. We still are supportive of that, but we are beginning to get concerned that the mechanism for that transfer will not be resolved, and will be left at the starting block. So we're hopeful that that question in State law can be resolved.

We support the continued work on the Cabin Creek storage site. I think that you'll look long and hard to find a site that is as feasi-

ble and in the right spot operationally as Bumping Lake, but I think, under the circumstances, it's well to continue to pursue Cabin Creek just to leave the options open.

I am concerned when people talk about we need to reach a consensus and move ahead on a project. I hope those in position that are looking for a consensus realize that in a water basin where we have long-standing conflicts over water rights, a consensus might not appear as it might in some other area, over some other issue. I do think that we're coming together, but it is not necessarily one big happy family. And yet we're still moving ahead.

I think that it's important, too, to have the leadership that you two have provided, and we're looking forward to your continued leadership. A consensus follows good strong leadership, and I think that's what we really need here is to have you continue to move forward diligently on this project.

And finally, as others have said, we need to move ahead rapidly. Ten years ago we had a drought, a major drought, and as a result of that we had legislation to authorize the study that's now under way. That was 10 years ago. We need to move ahead and solve the water supply problem.

Thank you.

[The prepared statement of Mr. Trull follows:]

SUNNYSIDE VALLEY IRRIGATION DISTRICT

OPERATING AGENT OF THE BOARD OF CONTROL IN THE
OPERATION AND MAINTENANCE OF THE SUNNYSIDE
DIVISION OF THE YAKIMA IRRIGATION PROJECT

P. O. BOX 239

Sunnyside, Washington

98944

STATEMENT FOR THE WATER AND POWER SUBCOMMITTEE
FOR THE UNITED STATES SENATE COMMITTEE ON
ENERGY AND NATURAL RESOURCES

October 19, 1987

My name is James W. Trull. I am secretary/manager of the Sunnyside Division Board of Control and the Sunnyside Valley Irrigation District. The mailing address is Post Office Box 239, Sunnyside, Washington 98944. A brief description of the Sunnyside Division is attached.

I testified in support of Senate Bill 2519 at the July 1, 1986 Field Hearing. We are pleased the Yakima Early Implementation Legislation (S. 1435 and H.R. 2814) has been filed in congress. Your courtesy in offering me the opportunity to comment is most appreciated.

Section 1(b) requires that a water conservation plan be developed prior to the construction of the Cabin Creek facilities. Emphasis on a water conservation/management plan, with or without the construction of the Cabin Creek facilities is a prudent course of action. Discussions in the Conservation Work Group have demonstrated water conservation opportunites not only are available but have wide spread acceptance and support. It should be emphasized however, such a conservation plan will be effective only with the proper funding and or other incentives.

We suggest the Early Implementation Legislation include language creating a water conservation revolving fund enabling water conservation projects meeting established criteria, to be authorized and funded appropriately. This would then provide the mechanism for an ongoing water conservation program which can be started in the very near future and would work toward attainment of practical and feasible water conservation/management opportunities.

Investigations should continue on the Cabin Creek site. By comparison, Bumping Lake will provide more storage at a lower unit cost and puts more needed storage on the Naches arm of the Yakima Basin. However it is prudent to keep as many options open as possible until a reservoir selection is finally made. Additionally the Cabin Creek site and the Keechelus-Kachess pipe line must continue as part of the Early Implementation elements unless or until such time as some other water source becomes available to mitigate the Easton Fish Laddering Facility.

We continue to support the authorization of facilities to automate and otherwise improve canal operations of the Sunnyside Division as found in Section 3(c). The cost of such improvements must be born by the beneficiaries of such water savings achieved. We made no comments at the July 1, 1986 Field Hearing as to where those savings could be transfered. In the intervening time period between that hearing and now, we have become concerned that legal impediments exist to transfer these savings as a fishery benefit. Therefore we ask that consideration be given to transfering these benefits to total water supply or in the alternative, direction be given as to the necessary changes in state law to permit the transfer.

We continue to urge the prompt passage of this proposed legislation to begin addressing the serious water supply shortages that now exist. The work on the Enhancement Project has been on going for ten years. We believe that is long enough. Now is the time for action.

Thank you.

BACKGROUND INFORMATION ON THE SUNNYSIDE DIVISION

The Sunnyside Division is about 50 miles in length and is from one to eight miles in width. The area served is in Yakima and Benton Counties, lying adjacent to the Yakima River. Water is diverted from the Yakima River at Parker, Washington. The Sunnyside Canal runs generally southeasterly from its point of diversion to Benton City, Washington, delivering water to seven irrigation districts, five cities and towns, and other entities. The irrigation districts and organizations within the Sunnyside Division are operated separately. However, the Sunnyside Main Canal and Headworks are operated by the Sunnyside Valley Irrigation District on behalf of the Board of Control. There are approximately 103,000 irrigable acres in the Sunnyside Division with 84,000 acres of which being in the Sunnyside Valley Irrigation District.

The Sunnyside Valley Irrigation District is recognized in the 1945 Consent Decree as having prior or senior water rights thereby being exempt from proration during water short years. The other six districts in the Sunnyside Division have proratable rights.

Over the past ten years significant efforts throughout the Yakima Basin have been made to use water more efficiently. Within the Sunnyside Division several rehabilitation and betterment projects have been undertaken which have resulted in the replacement of badly deteriorated woodstave pipelines with new pipe. Miles of open channels have been piped, reducing evaporation and seepage losses. Other conservation measures have been, and will continue to be investigated and implemented as they prove to be feasible.

Senator EVANS. Thank you.

We'll turn next to Paul Chasco.

Mr. WEATHERLY. My name is Gary Weatherly, and I'm here representing the Kennewick Irrigation District Manager, Paul Chasco, who is unable to attend.

Senator EVANS. Fine.

STATEMENT OF PAUL CHASCO, SECRETARY/MANAGER, KENNEWICK IRRIGATION DISTRICT, KENNEWICK, WA, AS PRESENTED BY GARY WEATHERLY

Mr. WEATHERLY. Senator Evans and Congressman Morrison, welcome to Yakima.

I am testifying today on behalf of the Kennewick Irrigation District Board of Directors and 30,000 plus District patrons. We support this bill and extend our gratitude to both of you for your diligent, untiring efforts to make the full Yakima Enhancement package a reality.

My comments naturally center around the Chandler Power Plant subordination, which will be somewhat repetitious from previous hearings, but it is important that they become a part of the legislation.

Section 5(a) instructs the Secretary of the Interior to operate the Chandler Power Plant in a manner that provides priority for protection and enhancement of fish and wildlife. In doing this, it is critical to recognize that:

One, under existing Federal Contract 14-06-W-56, that Chandler Power Plant is to be operated, and has been operated for 30 years, with irrigation demand having priority, and fish and power being subordinated to that need.

Number two, construction of facilities required to prevent fluctuation in the Chandler Canal and correspondingly the KID Canal must first be approved by the KID, and all costs of construction and O&M shall vest with the United States.

The Federal/KID operation and maintenance cost share allocation of 70/30 shall remain in place regardless of the power generated, or more appropriately, not generated.

The Board of Directors of the Kennewick Irrigation District view this legislation authorizing certain elements of the entire Enhancement package. We hope that this Congressional team will pursue the remaining elements, when they are determined, with equal vigor and tenacity.

Thank you for this time, and again, on behalf of the District's Board President, Dr. Kinsel, and Directors Pringle and Petersen, we hope that these few comments will be recognized and properly addressed in the implementation of these early elements.

Thank you. Senator EVANS. Thank you very much.

Gene McIntire.

STATEMENT OF GENE McINTIRE, CHAIRMAN OF THE BOARD, ROZA IRRIGATION DISTRICT, ZILLAH, WA

Mr. MCINTIRE. Thank you, Senator, Congressman.

My statements will more or less be from the viewpoint of a farmer, rather than from the District's technical point, because

we've been well represented on the working groups, and appreciate the time that we can have at that point.

I'm here testifying as a farmer with some knowledge of irrigation needs, usages, and shortages.

I have gone over the proposed legislation, and I can only say, "Let's get going on it." I have gone through a very dry season. If we would have had all of these elements in place, it could have been a lot better. Our crops on the Roza would not be in the jeopardy that they now face.

There is a player now involved, the Power Planning Council, that can tap a resource at a relatively fast rate to put fish passages, hatcheries, or whatever the needs of the enhancement of fish. This process usually involves more water use in times when this normally becomes a dispute.

This proposed legislation helps fill some of those needs for all or most. My only concern is the speed of the system to react to this legislation, especially with the Power Planning Council's ability to get BPA to put funds in action at a faster rate of completion time, meaning water needs for fish at a faster rate than made available through this legislation.

I wonder if some coordination would not be of a possible range. That way, when water is needed, it somehow is coordinated to be available without a constant conflict. Maybe the advisory group could help in this matter.

I see many people getting help in relief of a much over appropriated water system. The irrigator gets some new system improvements to relieve usage by efficiencies, some storage increases and power relief so the power plants can be cut when fish needs are warranted. All of these will help Roza in one way or another to get some more water for those short years. As many irrigators feel we are not asking for anything more than we have been paying for and thought was part of our lands when we purchased them years ago, they said we had water. In our water charges we have the cost of construction of dams and reservoirs. We also pay continually on O&M on these facilities.

I realize it's no one's fault. Things are agreed to by some and things go on. But the Bureau of Reclamation, the U.S. Government, ran the Roza, and no one informed us that many years later that we got to pay for, but might not receive. This legislation will help some of those feelings that somehow out there there might be a real caring person to help the farmers.

Even though many people feel it's a fight between irrigators and fish, well, it's really a selfprotection system in force when the water is taken, and not a fight. I like to see the fish enhancement and clean water, but why our water? What about replacement for the many years of mistakes by many, not just take from a few? I believe this legislation is moving in the right direction.

Sometimes I wonder if we have seen—have a sense of the sins of the father or the sins of the son syndrome that is in place. And that is not true. And what is needed is to somehow help all those who suffer, may have a way to get resolved through this kind of legislation. Not completely, but as reasonably high percentages of resolve and agreement, legislation, and cooperation, and to look to the future betterment of all fish, irrigators, and environment.

I feel that someone should address the reason why a limited number of people have not testified here for agriculture. Many of the people have seen years of studies, proposed facilities, changes, and nothing but studies happen. Ten years ago the serious problems of water were here, and now here we are again. So they say, "What good?" We need something concrete, not just paper. All of us are very concerned. Even the small businessman in town is worried, for if the farmer fails to get water, he fails to get business in his own property.

Thank you.

Senator EVANS. Thank you very much.

Barb Lisk.

STATEMENT OF BARB LISK, GROWER, ROZA IRRIGATION DISTRICT, ZILLAH, WA

Ms. LISK. Senator Evans and Congressman Morrison, thank you for having this meeting today.

I am not here to discuss the statistics with you. You already have those. I'm not here to review the studies with you, because you've done that.

I am here to speak to you as a farmer from the Yakima Valley. I represent my family, my neighbors, and my friends.

First I'd like to give you my background. In 1950 my mother and father established a homestead on the Roza Irrigation Project. My father left a career on the Hanford project to farm a piece of land that was offered to him by the U.S. Government. Along with that land came a written guarantee of delivery of water to that land under the reclamation project in which that land is situated.

Through the years my parents, my brothers, my sister and myself have devoted our lives to establishing a viable working farm out of that homestead. And now, except for a temporary job I hold now, my husband and I depend entirely on that farm for our income.

In 1967 my father was on the Board of the Columbia Plateau Resources Council, a group of people from Washington, Oregon, and Idaho, who were primarily formed to encourage then-Senator Henry Jackson to cause a moratorium on studies of diverting Columbia River water to the California area.

He was later—my father was later the first president of the Yakima Valley Natural Resources Association, a group of concerned local citizens who helped raise matching funds for Washington State University's study to define the irrigated lands of the Yakima Valley, and whose ultimate goal was to bring more water into the Valley for irrigation purposes.

My point in all that is that now, 20 years after the first study that I was exposed to through my father's experience, we on the Roza project face what may very well be our most critical year ever in farming. In a moisture-short year, and with the minimum flows now required in the river, we may not have enough water in storage to irrigate our farms.

I would like to remind you of the devastating effect a major crop loss due to the lack of irrigation water would have on our local economies. Hundreds of farms would be adversely affected. Local

city economies in the Valley would become more depressed than they already are. Thousands of jobs would be affected.

I do have a few statistics that I would like to mention here. One segment of the agricultural industry that would be affected would be apples. The 1987 apple crop has been estimated at a worth of—this is the Washington State 1987 apple crop—has been estimated at a worth of $750 million. More than a third of that crop is grown in Yakima County alone.

That money comes back into our Valley and makes its way down to our local communities. If we have a major crop loss due to lack of irrigation water, that money won't be there. And that's only the apple industry. Other parts of agriculture would also be affected. If we don't have water for our agricultural interests the affects will be catastrophic.

My request to you, as our Senator and as our Congressman, my request as a farmer is this.

When you make decisions that affect the enhancement project, whether it's a decision that slows the project down, or perhaps allocates storage waters to places that they don't necessarily need to go, remember the incredible affects that those decisions may have on the communities in the Yakima Valley. Please, when you make those decisions, don't let agriculture down.

Thank you.

Senator EVANS. Thank you very much.

Let me turn for a few questions—first a comment—to Jim Trull.

I would guess that given the nature of the controversies and the difficulties we face, that anything short of a shooting war, I would call consensus. [Laughter.]

I frankly have been amazed and heartened by the fact we have come as far as we have, and that we're really beginning to move with some additional speed toward the resolution of the sticky problems we have, and a resolution in the right forum. I think the only resolution to this ought to be a legislated resolution coming through Congress, rather than a court resolution. I haven't found a judge yet who could create more water, and store any water. Clearly we hope we're on the right track, at least, and hope we can continue to move ahead.

Gene McIntire, yours is an interesting and worthwhile suggestion, that we attempt to move as rapidly as possible in terms of partial funding through the Northwest Power Planning Council to the ratepayers of the Pacific Northwest. Interestingly enough, the difficulty in doing that has a lot to do with the shortage of water, because Bonneville's revenue from which these funds come, is derived, as we all know, primarily from hydroelectric power sales.

This year Bonneville went through a major rate case. I think many of you may have watched the controversy surrounding that rate case, and how much power rates ought to be increased in order to give Bonneville the surety of enough money to handle all of its problems. The controversies probably ended up lowering the amount of electrical rate increase which was sought by many of the major users of Bonneville Power. Unfortunately, in doing so, Bonneville found it necessary to reduce the amount of money set aside for electric power conservation, and for their fish and wildlife program.

Now we're finding that probably next year it's going to be even more difficult, because there is not much left in reserve in Bonneville, and they have a requirement to pay the Federal Government each year. I think that the first year, now, that we fail to pay the Federal Government will be a year in which we have some severe problems. They've been attacking and trying to get some changes in the way Bonneville is run—some of our Congressional colleagues from back East. We've been fending them off by pledging in blood that we would always pay, and pay on time, the principal and interest we owe to the Federal Government. If we have another water-short year, it may be almost impossible for them to pay; or if they pay, then to have to abandon or cut back in so many other areas.

So, interestingly enough, the very source that we'd all like to use for a portion of the nonfederal cost of these projects is affected in very much the same way that farmers are, or the fisheries interests are. When water is short, we all hurt, and even the potential dollars for solution get affected adversely, which is really a shame.

One thing that, Barb Lisk, you mentioned was that—words something like you want to make sure the water isn't set aside and goes to where it "doesn't necessarily need to go." I'm not sure just what you had in mind with that, because everybody is short of water, and everybody is scrapping for sufficient water. We're trying to cooperatively get enough water for everybody, but——

Ms. LISK. Somehow I knew you were going to ask me that. [Laughter.]

Remember that I introduced myself as a farmer.

Senator EVANS. Yes. I understand.

Ms. LISK. We always don't have a consensus on what is the most important industry in our Valley. I, of course, think that it is agriculture.

Senator EVANS. Yes.

Ms. LISK. I personally believe that storage water should be used for agriculture, not for minimum flows in the river.

Senator EVANS. Okay. That's pretty clear and understandable. I wish everyone would speak as clearly. [Laughter.]

I think that, you know, what we're striving for—of course, those who have a fisheries interest, and especially those who represent the Yakima Nation feel very strongly the other way, and feel that in many respects they were here before the farmers. And that controversy, I don't think we need to run around. That gets us into court, and I think that's last place we need to be.

What we ought to be able to prove here, and what I hope at least we can prove with what we're attempting to do in the first phase which is now almost completed, and in this early implementation project which we hope to move ahead on as fast as we can, and in the final project as it comes along, is a cooperative way to meet everyone's needs. I think the only way to do that is to keep everybody together throughout the process. The only way to keep everybody together throughout the process is for everyone to feel that there is some advancement and some progress, some help for each of the interests at each stage of the venture. That's the narrow kind of-- and sometimes difficult—task we're trying to fulfill.

Sid?

Mr. MORRISON. Senator, I have words of praise for all of the folks in front of us, representing irrigation districts. I've seen, since we've started this process, a lot of give and take, and a lot of efforts in the individual districts to improve their lot.

And Jim Trull, your comments on SVID I think are very appropriate.

Gene McIntire, I wanted to follow through—you mentioned the fact, and it's true, that the Northwest Power Council can probably find some funds at a faster rate than we can, going through the normal appropriations process. And then you suggested the possibility of coordination, so that we didn't get the fish in front of the water. I think that's an excellent suggestion. Did you have something in mind there like the Easton operating agreement? Something negotiated in that forum?

Mr. MCINTIRE. Well, not only negotiations, Congressman. I was also thinking in terms of, if they decided to come up with something, if they could run it through the work group that is working now, or some kind of group like that, to coordinate, so we didn't get the fish running ahead to where the usage is. And I was relieved by Kai Lee's comments earlier that they did not intend to get anything going without first consulting and finding out where there was water, with the group. In that forum, I was thinking of cooperation.

Mr. MORRISON. Okay. Well, that's encouraging, because I think both of us have seen the working groups really putting some things together, and it certainly is along the line of what you're suggesting. We're going to do these things, we know they're out there, let's do them on a coordinated basis so no one really has to suffer through the process. But along that line there has to be some give and take, and that isn't always the easiest thing to do in this subject area.

Mr. MCINTIRE. It's very difficult, but we're learning.

Senator EVANS. We're all learning together. Thank you very much for your contribution. Next is panel 5, Mary Burke, Subcommittee for Water Rights and Resources of the National Cattlemen's Association from Cle Elum, Washington; Frank Falen, Executive Secretary, Washington Cattlemen's Association, Ellensburg, Washington; and Robert Jones, President of the Washington State Farm Bureau, from Grandview, Washington.

Welcome to the hearing. We're delighted to have you here, and we will proceed, as we have before, with the entire statement of each of you being placed in the record. You may proceed as you wish summarizing your statements. We'll go in the same order as my introduction.

Mary Burke.

STATEMENT OF MARY BURKE, CHAIRMAN, SUBCOMMITTEE FOR WATER RIGHTS AND RESOURCES, NATIONAL CATTLEMEN'S ASSOCIATION

Ms. BURKE. Good morning Senator Evans and Congressman Morrison. It's our pleasure to be here today.

The National Cattlemen's Association appreciates the opportunity to comment on S. 1435. My name is Mary Burke, Chairman of

the NCA Water Rights and Resources subcommittee on whose behalf I present these comments.

We submitted some for the record, and may submit some additional technical comments on some of the legislation. I will, however, make a few remarks on our behalf to those here today.

We support, Senator Evans, your introductory statement to the Senate on June 26, 1987. That legislation is sorely needed. Since you noted on that date the imminence of proration, we have experienced a shortfall of six weeks of water delivery in some districts.

We feel S. 1435 is improved over earlier versions, particularly in the inclusion of storage components. We would urge you also to include in this authorization, at the least, feasibility monies for the construction of Bumping Lake and Wymer, in addition to Cabin Creek.

You and Congressman Morrison have repeatedly urged the water users of this basin to agree with the Yakima Nation on storage sites, and solutions. You will now find agreement between the Tribe and irrigators for the consideration of Bumping Lake, Cabin Creek, and Wymer, as reflected in the Off-Reservation Site Selection Work Group report to the Policy Group. We ask you to move forward on these sites by including them in S. 1435. I would agree with Mr. Sampson in his fears that if we do not now move forward, we may not ever.

Although there have been some language changes from your last bill, we submitted our previous testimony for expediency purposes this morning.

We would call to your attention two other recent proposals affecting this basin that we feel must be addressed in this bill. First is the Northwest Power Planning Council proposal to build an outplanting hatchery to plant anadromous fish in the Yakima tributaries. This will expand the problems, controversies, and water shortages you have an opportunity to solve on the mainstem by this Federal legislation, more than 50-fold into that many tributaries. We therefore ask that in section 1(a) the reference to the Northwest Power Planning Act be deleted.

And after hearing what Kai said this morning, I'm tempted to say, at least until court actions can be scheduled. I do think we need perhaps some further discussion on the way the Power Council, and the irrigators, and the people in the tributaries look at water rights in that specific question. We understand he's looking at a voluntary program, and where he's coming from. We don't necessarily feel that he has, as yet, solved either the legal or political problems that might result therefrom.

Second, the Bureau of Reclamation has announced a plan to change its Congressional charge and direction. While the NCA has not formulated a response to the Bureau, we feel it is immensely important that the solution to the Yakima project problems not preclude inclusion in the Bureau's future plans and operations, and that existing rights of users and contractual obligations of the Bureau be specifically defined, so that water right holders are not assessed additional monies for waters already allocated, and that new assessments apply only to new waters.

We've discussed that with both of you before. I think with the new Bureau plan that's even more important, that we have a little

further discussion on how that affects—on how the affects of the new Bureau plan will have affect on 1435 or vice versa.

We would suggest that section 1(3)(b), referring to conservation plans for recipients of irrigation water, be rephrased to reflect the understanding that this refers to only new waters over and above present Bureau obligations. We would refer you to the Conservation Work Group report which is considering system improvement, and perhaps this language could be substituted.

Several people already commented on this this morning, and I would add there that monies for voluntary conservation activities are different that a conservation plan required in order to have one's water delivered if he is recipient of irrigation water. And that is our point there.

There is also a confusing cross-reference in section 2 as to how the Yakima enhancement operation and maintenance will be coordinated with the existing project, and whether that includes Bureau-built districts, only proratables, or all to whom water is delivered. Because of the new Bureau proposals, and the Aquavella adjudication, we suggest that this be clarified, and specifically enumerate existing water rights. We would wish here to avoid a technical solution that would cause a bookkeeping or legal impossibility.

I have not had an opportunity on the work group to discuss that with the Bureau, but I would urge that perhaps Larry Vinsonhaler could discuss that with you, as well as with us.

Mr. Jones, Congressman, was quoted in a letter to the Yakima Daily Republic, December 18, 1905, when he announced approval by the Secretary of Interior of the Tieton and Sunnyside projects and urged the immediate completion of the signing of the limiting agreements so that the Yakima project could get underway:

> The Secretary of the Interior assured me unequivocally that he would do everything in his power here to help us along to get this work under way. This, in my judgment, insures the satisfactory adjustment of the Indian reservation so that the claims of the Indians will never disturb the rights of present irrigators, and also insures the bringing under irrigation of many thousands of acres of land which other wise would lie idle.
>
> This leaves for settlement at home by our people the claims of those who are now irrigating from the river and its tributaries, and of those who are using the water of the river for power purposes. The government will not adjust the claims of power as it was suggested in the Republic a few days ago. That is a claim that we will have to settle just the same as the claims of all other private users of the waters of the stream. The matter is now squarely up to us. Heretofore we have not had the approval of the Secretary. We now have his approval and his assurance that if the difficulties in the way are settled, construction will be begun. The settlement of these difficulties alone will be an incalculable benefit to our people and our valley. It makes the water rights absolutely sure for all time to come; avoids lawsuits and will promote good feeling throughout the whole valley. The commencement of work means not only reclamation of the lands under the Tieton and Sunnyside projects, but ultimately, and as rapidly as the work can progress and the money is available, the reclamation 60,000 acres in the Kittitas and 200,000 acres in what is known as the Leadbetter Project.

Congress and the Department of Interior, in building the Yakima project, signed agreements to prevent the controversies we are now discussing—the limiting agreements with prior water rights owners and contracts with those under the new Bureau projects. To the extent any problems exist or litigations is pending, the U.S. has the obligation to see neither affects these prior agreements or State

water laws. We feel you have an opportunity in S. 1435 to solve these problems by reaffirming the Federal obligations and recognize existing rights, provide storage for irrigation and fishery needs, both to citizens and the Yakima Nation, and remove any reason for further litigation.

I would also say it has been our view—the National Cattlemen's Association is taking a hard look at water banking and water sales throughout the West, and we feel that you must remove the litigation threat and really have some certainty of water rights, before those can be put in place at either State or Federal levels. And we've found that to be true in a number of other places.

I thank you both this morning for this opportunity to testify.

[The prepared statement of Ms. Burke follows:]

October 19, 1987

Honorable Daniel J. Evans
702 Hart Building
Washington, D.C. 20510

The National Cattlemen's Association appreciates the opportunity to comment on S. 1435. My name is Mary Burke, Chairman of the NCA Water Rights and Resources subcommittee on whose behalf I present these comments.

We support your introductory statement to the Senate on June 25, 1987 that legislation is sorely needed. Since you noted on that date the imminence of pro-ration we have experienced a shortfall of six weeks of water delivery in some districts.

We feel S. 1435 is improved over earlier versions, particularly in the inclusion of storage components. We would urge you to also include in this authorization, at the least, feasibility monies for the construction of Bumping Lake and Wymer in addition to Cabin Creek.

You and Congressman Morrison have repeatedly urged the water users of this basin to agree with the Yakima Nation on storage sites, and solutions and you will now find agreement between the Tribe and irrigators for the consideration of Bumping Lake, Cabin Creek, and Wymer as reflected in the Off-Reservation Site Selection Work Group report to the Policy Group. We ask you to move forward on these sites by including them in S. 1435.

Although there have been some language changes from S. 2519, we would submit the NCA comments on that bill for expediency's sake today.

We would call to your attention two other recent proposals affecting this basin that must be now addressed in S. 1435. First is the Northwest Power Planning Council proposal to build an outplanting hatchery to plant anadromous fish in the Yakima tributaries. This will expand the problems, controversies, and water shortages you have an opportunity to solve on the mainstem by Federal legislation, more than 50 fold into that many tributaries. We therefore ask that in Sec. 1. (a) the reference to the Northwest Power Planning Act be deleted.

Second, the Bureau of Reclamation has announced a plant to change its Congressional charge and direction. While the NCA has not formulated a response to the Bureau, we feel it is immensely important that the solution to the Yakima project problems not preclude inclusions in the Bureau's future plans and operations and that existing rights of users and contractual obligations of the Bureau be specifically defined in S. 1435 so that water rights holders are not assessed additional monies for waters already allocated and that new assessments apply only to new waters.

We would suggest that Sec. 1 (3) (b) referring to conservation plans for "recipients of irrigation water," be rephrased to reflect the understanding that this refers to only new waters over and above present Bureau obligations. We would refer you to the Conservation Work Group report which is considering "system improvements" and perhaps this language could be substituted.

There is also a confusing cross reference in Sec. 2 as to how the "Yakima Enhancement" operation and maintenance will be coordinated with the existing Yakima Project and whether that includes Bureau built districts, only pro-ratables, or all to whom water is delivered. Because of the new Bureau proposals and the Aquavella adjudication we suggest this be clarified to specifically enumerate and recognize existing Bureau contracts, state and Territorial water rights. We would wish to avoid a technical solution that would cause a bookkeeping or legal impossibility.

Mr. Jones, Congressman, was quoted in a letter to the Yakima Daily Republic, December 18, 1905 when he announced approval by the Secretary of Interior of the Tieton and Sunnyside projects and urged the immediate completion of the signing of the limiting agreements so that the Yakima Project could get underway:

"The secretary of the interior assured me unequivocally that he would so do everything in his power here to help us along to get this work under way. This, in my judgement, insures the satisfactory adjustment of the Indian reservation so that the claims of the Indians will never disturb the rights of present irrigators and also insures the bringing under irrigation of many thousands of acres of land which otherwise would lie idle.

This leaves for settlement at home by our people the claims of those who are now irrigating from the river and its tributaries and of those who are using the water of the river for power purposes. The government will not adjust the claims of power as it was suggested in the Republic a few days

ago. That is a claim that we will have to settle just the same as the claims of all other private users of the waters of the stream. The matter is now squarely up to us. Heretofore we have not had the approval of the secretary. We now have his approval and his assurance that if the difficulties in the way are settled construction will be begun. The settlement of these difficulties alone will be an inculable benefit to our people and to our valley. It makes the water rights absolutely sure for all time to come; avoids law suits and will promote good feeling throughout the whole valley. The commencement of the work means not only the reclamation of the lands under the Tieton and Sunnyside projects but ultimately, and as rapidly as the work can progress and the money is available, the reclamation of 60,000 acres in the Kittitas and over 200,000 acres in what is known as the Leadbetter project at a total cost of eight, ten, or twelve million dollars."

Congress and the Department of Interior in building the Yakima Project signed agreements to prevent the controversies we are now discussing--the limiting agreements with prior water rights owners and contracts with those under the new Bureau projects. To the extent any problems exist or litigations is pending, the United States has the obligation to see neither affects these prior agreements or state water laws. We feel you have an opportunity in S. 1435 to solve these problems by reaffirming the Federal obligations and recognize existing rights, provide storage for irrigation and fishery needs, both to citizens and the Yakima Nation, and remove any reason for further litigation.

Thank you for this opportunity to testify.

Clipping from The Yakima
Daily Republic
December 18, 1905

Settlement of Water Rights Now Sure

Only a few more feet to be obtained by the committee before the slate is clean for the Yakima Project

"There is no intention on the part of the government to take care of any excess. As a matter of fact it is the idea of the department that they will recognize the claims of our people to everything that is in the river and no more, and our people must adjust this among themselves. If we should get it down to 25 or 30 cubic feet I do not know whether the government would go ahead or not. We must not, and cannot assume, that the government will take care of a foot. It is now up to our people to do something and I certainly hope that they will do it." - W. L. Jones.

The water question is not yet settled. But it is believed that it will be settled to the satisfaction of the secretary of the interior. The secretary in his communication last week to Congressman Jones says that the people of the Yakima valley must present a clean slate before he will spend a dollar for irrigation work.

The slate is almost clean, but the last mark must be wiped out before the people have done their part. There is now a shortage of under 50 cubic feet in the whole valley from the Columbia river to the Cascade mountains. This shortage must be made up.

The shortage is all below the Union Gap. The slate from that point up stream is clear. Kittitas county has done her part in every particular. The people above Union Gap in Yakima county have done their part. Their task is not finished, however, for they must make up the shortage for the canals below.

The soliciting committee summed up their figures at a meeting Saturday evening and this morning two of the members got together again, to make sure that they were right. With the result as it is some of the canals above the gap are getting too much water, more than they diverted last summer.

It is believed by some of the users that the government will settle on this basis, but the secretary of the interior has not intimated that he would. Congressman Jones says that he will not do anything until a clean slate is presented. The above letter from Mr. Jones on this question to President Lombard of the Commercial Club, under date of December 13, is plain enough. Every foot of the shortage must be wiped out. The people cannot stop at the 50 foot mark. If the 50 feet that is short below cannot be secured there it must be taken from the users at this end. The soliciting committee is still at work and are hopeful that a satisfactory settlement will finally be reached this week.

The letter from Mr. Jones to the committee is as follows:

Washington, D. C. Dec. 12, 1905

The Irrigation Committee, North Yakima, Wash: Gentlemen - It was a great pleasure to me to send you a telegram today notifying you that the secretary of the interior had approved the Ticton project and had allotted therefore one million dollars and the Sunnyside project and had allotted therefor $750,000.

It has taken hard work to secure $750,000 more than the amount in our restricted fund but we have done it. I herewith hand you a copy of the letter from the secretary of the interior which will show what has to be done. The first, second and sixth conditions are practically the same. These are things that will have to be done by our people. The Sunnyside and the Indian reservation proposition are matters largely that are to be adjusted here and I feel that it will be very easy to take care of both of these if our people do their part. It would seem that it ought not to be difficult to secure a satisfactory adjustment of the fourth proposition. I should think that our state officials, when they are convinced that the secretary means business and intends to begin work in our valley and state if things are adjusted will not stand in the way of this great enterprise. I do not anticipate any trouble in this respect and would suggest that our people take this matter up with the state officials, and especially with Mr. Ross, at once. The secretary of the interior assured me unequivocally that he would do everything in his power here to help us along to get this work under way. This, in my judgment, insures the satisfactory adjustment of the Indian reservation so that the claims of the Indians will never disturb the rights of present irrigators and also insures the bringing under irrigation of many thousands of acres of land which otherwise would lie idle.

This leaves for settlement at home by our people the claims of those who are now irrigating from the river and its tributaries and of those who are using the water of the river for power purposes. The government will not adjust the claims of power as it was suggested in the Republic a few days ago. That is a claim that we will have to settle just the same as the claims of all other private users of the waters of the stream. The matter is now squarely up to us. Heretofore we have not had the approval of the secretary. We now have his approval and his assurance that if the difficulties in the way are settled construction will be begun. The settlement of these difficulties alone will be of incalculable benefit to our people and to our valley. It makes the water rights absolutely sure for all time to come; avoids law suits and will promote good feeling throughout the whole valley. The commencement of the work means not only the

reclamation of the lands under the Tieton and Sunnyside projects but ultimately, and as rapidly as the work can progress and the money is available, the reclamation of 60,000 acres in the Kittitas and over 200,000 acres in what is known as the Leadbetter project at a total cost of eight, ten or twelve million dollars. The expenditure of this money alone will be worth millions in business and the increase in our population of thousands of people. The reclamation of the lands means thousands of settlers and thousands of people in the towns and cities. With these thousands of people will come manufacturing establishments of which we have not heretofore dreamed. It is almost inconceivable that any man will be unwilling to concede much in order that this great work can go on. To everyone who owns property it means a doubling in value. If this is true, and I believe it is, we can concede twenty-five or even fifty per cent and still be ahead financially and otherwise.

If we let this opportunity pass we are plunged into an endless and expensive litigation which will either directly or indirectly involve every water user from Kennewick to Cle Elum. At the end, the court - one man - will distribute the water that is in the river (and he cannot distribute any more) to those whom he finds entitled to use it. In this distribution he will spread out the water just as thinly as possible. He will make it go just as far as he can, the most economical use will be required and very likely each man will be told just when he can use his water - as was done in the Wenas. It seems to me that the people themselves ought to be able to make a better distribution than any court, and especially when so much will accrue from an amicable settlement. We should emulate our friends in Kittitas county. Without half the incentive that we have, they have come much nearer the proper settlement, for with their project not yet specifically approved, they have made concessions which, if followed by our people, would soon solve one of our most difficult problems. I am glad that they are so situated that they will get a great benefit from the expenditure of much of this money in the construction of reservoirs without having to wait for actual work on their project. Private capital cannot come into our territory with the water rights unadjusted even if the projects could be found which it could handle. Therefore, we cannot expect much further development. This is the time when the whole valley should get together and work. It is now that our business men should wake up to the importance of this matter. It is not the time for sharp practice or for attempts to get the best of some one or of the government. The government says just what it will do and we know just what we must do. Our part really needs to be done first because the Sunnyside option cannot be cared for without the adjustment of our matters nor can the Indian reservation matter be taken up without this. Therefore, it is very important that our people should proceed at once. The Sunnyside option expires January 1 and, unless an extension of time can be secured we must adjust our rights by that time. I would suggest that our people take up the matter of the extension with Mr. Blaine at once. The secretary is willing to give

us all the time possible but the extension of the option rests with Mr. Blaine. I cannot help but believe that with the approval of the Sunnyside project by the secretary Mr. Blaine will be perfectly willing to extend his option possibly one or two months longer. This is a matter that our people should take up at once if they want more time. I cannot say more than already has been said of the importance of this matter to our people. Everyone certainly appreciates it. As your representative I have done my part except as I may be able to help in the adjustment of matters which can be adjusted here and in this I certainly shall not relax any efforts that may be necessary for success. The responsibility rests now with the people at home. If there is failure in this I cannot be blamed.

Some have criticised me in the past for not having done anything for our section. I feel now that I have done more for this section than I have done, or ever can do, for any other section of the state. The people of Bellingham are determined to raise $1,400,000 in order to secure a railroad. If the spirit that aninates them could permeate our whole valley this matter would be settled very shortly. Kennewick, Kiona, Prosser and Sunnyside should unite as one man with North Yakima in endeavoring to secure the hearty cooperation of all our people.

The reclamation officials will be at liberty to give you such information as they may have which will assist you in your work.

Trusting to receive a telegram in the near future that your work is done, I am

Most respectfully yours,

W. L. Jones.

NATIONAL CATTLEMEN'S ASSOCIATION
5420 South Quebec Street • P.O. Box 3469 • Englewood, Colorado 80155 • (303) 694-0305

NCA

July 9, 1986

Honorable Senator Daniel J. Evans
702 Hart Building
Washington, D. C. 20510

Dear Senator Evans:

The National Cattlemen's Association appreciates the opportunity to testify on S. 2519. My name is Mary Burke, Chairman of the NCA Subcommittee on Water Rights and Resources on whose behalf I am presenting these comments. We have three general comments:

1. S. 2519 gave congress the opportunity to quantify reserved water rights and we are disappointed you have avoided that issue.

2. The language does not adequately protect and recognize existing water rights and adds confusion.

3. The costs are not borne by the beneficiaries.

Specifically, in Sec. 1, we find the first sentence extremely confusing. The word "enhancement" is unnecessary, the prepositional phrases can apply to one noun or several, and the primary responsibility of the bureau of reclamation to deliver irrigation water seems to be legislatively lost. We would prefer that this section read "the Secretary of Interior is authorized to design, construct, operate and maintain pursuant to Federal Reclamation Law and Washington State Water Laws". People of the Pacific Northwest have been repeatedly assured that the Pacific Northwest Electric Power Planning and Conservation Act (94 Stat. 2697) has only planning authority and we object to giving it regulatory power. We believe the Bureau of Reclamation should reaffirm its primary responsibility of delivering irrigation water in references to the operation of fish passage facilities. We would suggest the deletion of the term "wildlife" in this act as there are no facilities proposed to this purpose and it further complicates the management of waters by the bureau. In order to correct the grammatical awkwardness of the first sentence we would suggest it read "that (a) for purposes of protection of irrigation, fish life, and system improvements, the secretary" delete "NWEPPCA" and substitute "Washington State Water Law". The term "water conservation" is not an accurate description of the projects proposed and there are presently so many problems with the loss of water rights caused by the 1985 Farm Bill using the "conservation" we find it a confusing and unacceptable term.

In Sec. 2 the first sentence should either be deleted until storage is built or state plainly that no waters from any existing rights will ever be used for fish passage facilities. Why does the word "valid" appear at all and only before "contract rights of irrigation users"? This can only be viewed as a bias. In the last sentence we would suggest the inclusion of the words "Territorial Rights", recognizing those rights vested during the various homestead acts. This is becoming particularly important since these rights can be threatened by the increasing fish plantings in both the mainstream and the tributaries.

We found Sec. 3 and 4 very confusing. In Sec. 3 Rosa (a) and (b) Wapato, the waters "shall be available". Does this mean these waters will supercede the 1945 decree and become "non-profitable"? Where will they be stored? The waters in (c) Sunnyside "shall be allocated". The waters in Sec. 4, Cle Elum Dam and the Lakes Pipeline, "shall become features of the existing Yakima Project". It has been the understanding of the people of Kittitas County that the Lakes Pipeline was for the purpose of making the fish passage facilities at Lake Eaton possible. This section does not provide that the cost be borne by fisheries interests. The NCA strongly opposes confusion of water rights allocations as appears in this section. Our membership has many of the oldest rights in this nation, as well as new water development, and we urge precise definitions of all rights and responsibilities. We also oppose land and water rights owners being burdened with costs accruing to other beneficiaries. If rights and costs are spelled out now we eliminate legal problems later.

Sec. 7 and 8 also indicated funding requirements from irrigators. We can find no additional water available through this bill. It also does not address the return of "Quakanbush Flows" which are in fact the property of existing water rights holders used now instream.

Sec. 9 should state specifically that only this section and not the entire act gives priority to fish.

We would ask that these sections be explicit in funding requirements and that only new waters, additional to bureau delivery contracts, be subject to irrigation repayment; this bill would require that irrigators pay twice for the same delivery. The bill is also silent about the necessity of amending irrigation contracts as required by the 1982 Reclamation Reform act.

Sec. 10, unless you do plan to quantify federal reserved rights or build storage and alleviate the need for an adjudication, we question the wisdom of including "ground water" (3) at this time. We have no problem with this as a sensible practical project, but the inclusion of ground waters into a surface water issue compounds our legal problems.

Honorable Senator Evans
July 9, 1986
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The last Sec. 11, is improved over some proposals but we do not understand what jurisdiction the Yakima Indian Nation has over any waters or streams or groundwater outside the reservation boundaries. Please clarify or delete this.

In conclusion, we must oppose the bill as written but are disappointed that it was not used as an opportunity to resolve and clarify problems. We feel it is further confusing and complicating the issues in this basin and would be a most regrettable precedent for other states, particularly as irrigation and andromous fish issues are addressed in Oregon, Idaho, and Montana.

Thank you very much for this opportunity to testify.

Sincerely,

Mary Burke

Mary Burke, Chairman
NCA Water Rights Subcommittee

MB:lc

cc: Senator Slad Gorton
Congressman Sid Morrison

Senator EVANS. Thank you very much.
Next in order, Mr. Frank Falen.

STATEMENT OF FRANK FALEN, EXECUTIVE SECRETARY, WASHINGTON CATTLEMEN'S ASSOCIATION, ELLENSBURG, WA

Mr. FALEN. Senator Evans, the Washington Cattlemen's Association appreciates the opportunity to comment on S. 1435. My name is Frank Falen, Executive Secretary of the Washington Cattlemen's Association on whose behalf I present these comments.

We support the position of the NCA and feel there is no reason to restate what has just been said. However, there are a few points we would like to make, and in addition some WCA members may send in written comments.

As you are aware, the Northwest is experiencing a severe drought. The extended weather outlook shows that we can expect little precipitation if any, through December, 1987. If the rest of the winter proceeds in a like manner, the summer of 1988 will be drier than the summer of 1987, during which the water to many irrigators was shut off before the end of the season. Irrigators are now feeling the financial repercussions of the water shortage.

Geological surveys show that in the West, the deserts are moving north and we may see these dry years in an increasing frequency. Most experts agree that the water reserves of the West will continue to increase in value relative to other natural resources. The Yakima Basin is fortunate compared to many areas of the West, in that we have the water resources and the sites where it can be stored. For these reasons we urge you to include in the bill feasibility studies for any possible storage sites including Wymer Reservoir, Bumping Lake, and Cabin Creek.

The WCA suggests that comments be added at the end of section 2 to make plain that the Bureau will meet all existing contracts, and monetary assessments will only be levied against new water for new purposes.

The Soil Conservation Service presently has many conservation and on-farm efficiency plans in place. There are conservation requirements in the 1985 farm program, and congressional proposals for specific plans for Farmers Home Administration and Farm Credit System loans. WCA feels caution should be used to see that irrigators are not shorted on water because of conflicting conservation plans, especially since the majority of crops in the Basin are not surplus or subsidized commodities.

We would like to see the conservation section clarified so that it applies in all cases, only to waters for additional purposes, and will not conflict with existing, or future conservation plans for other purposes.

Thank you for this opportunity to testify.

Senator EVANS. We thank you.

Mr. Robert Jones, President of the Washington State Farm Bureau.

STATEMENT OF ROBERT JONES, PRESIDENT, WASHINGTON STATE FARM BUREAU, GRANDVIEW, WA

Mr. JONES. Senator Evans, Congressman Morrison, we thank you for the opportunity to say a few words.

Nearly 15 months ago, I testified before this subcommittee on Senate Bill 2519. My testimony was critical of the process, the indecision, and the inordinate delays that have plagued the concept of creating additional storage in the Basin for 30 years.

I am pleased that you are back, and that progress is being made in solving what is becoming a chronic as well as a critical problem for farmers and ranchers in the Yakima River Basin. We support S. 1435.

Agriculture is the number one industry in Washington State. That ranking, as well as the jobs created, and agriculture's major contributions to the gross State product, requires a healthy agricultural industry statewide, including the Yakima Valley.

As I speak to you, we are in the 92nd day without rain in this valley. A 90-day weather forecast released two weeks ago promised more of the same for that 90-day period. In four more days we will, without any doubt, set a new all-time drought record. As in 1973, 1977, and 1979, and now 1987, we have been, and are suffering drought conditions. In addition, water demands have increased; most notable, the 1980 Federal court decision which has resulted in a range of from a low of 42,850 acre-feet to a high of 120,000 acre-feet of irrigation water being release annually to promote incubation of salmon redds.

As you noted in your opening remarks, Senator, when you flew over the Cascades this morning, most of the major reservoirs are already dry, empty. Without benefit of major snow falls in the mountains this winter, 1988 will truly be a year to remember—or forget.

We continue to believe that without additional storage in the Yakima River Basin, improved conservation techniques, and technical improvements in irrigation systems, agriculture will never stabilize or reach its full potential, nor will the goal of enhancement of fish and wildlife ever be achieved.

In reviewing the proposed legislation, S. 1435, I note a general tightening and tidying up over Senate Bill 2519 which we discussed last year. The inclusion of Cabin Creek as a site for additional storage in the fact of potential delays in a project to enlarge Bumping Lake appears to be a move in the right direction. However, in my opinion, it is woefully inadequate in capacity. I feel that a minimum new storage capacity of at least 500,000 acre-feet is necessary for the long-term solving of the many problems that the Yakima River Basin faces.

As an irrigator, representing irrigator, mandatory language on the development of responsible water conservation measures for irrigators sends a shiver of apprehension down my back. But I am ready, as are those I represent, to work toward the adoption of practical conservation measures to maximize the benefit of the water available to us.

Many of us learned new conservation measures in 1977, and 1979, and again in 1987. We are trying to maximize the amount of

water that is available to us to get the most possible benefits out of it.

At this point I believe that we are all ready to admit that the foundation of the solution to the instability and uncertainty of irrigated agriculture in the Basin is additional storage of available water. The complexities of the total project are immense, and the interests—the players—seem to grow in direct proportion to the delays encountered.

I believe that the players and their interests must be kept in sharp focus if we are to succeed. Those things we are trying to accomplish—our goals—must be on a balanced timeline if all interests are to be served.

If the goals of the Northwest Power Planning Council, for example, move on a faster track than that of storage of additional water for irrigation, we could find ourselves marching in place, rather than meeting the needs of all participants.

Seeing the Yakima River again alive with salmon is an intriguing prospect. But without balance in achieving all of the goals set forth in the legislation, a call for another round of enlarged storage facilities could easily be the result.

Just as I began this testimony, we are pleased that you are here. We are pleased with the efforts on this project of the members of the Washington State legislature who represent agricultural districts. We are pleased that S. 1435 is before the Congress of the United States.

The Farm Bureau will support early passage of the measure, including early and expeditious action. Our support, incidentally, is not limited to the Washington State Farm Bureau. We will support this effort in the Congress of the United States with the full force of the American Farm Bureau Federation.

In a conversation with a colleague regarding this hearing, the thought was expressed that we could well be looking ahead at a 20-year project. I certainly hope not. The need is real. The solution is at hand. The fact that this hearing is taking place indicates a willingness on the part of responsible people to get on with it, and get the job done. Let's do it.

Thank you for the opportunity to appear before the Committee.

Senator EVANS. Thank you very much.

I'll just say as an aside to that last comment, that I'd like to sure see us move ahead, and I don't have 20 years to do it. I don't think any of us do.

I appreciate very much particularly the specific proposals for modification or change in the legislation. We'll want to take a very good look at those, and to see how they should be implemented.

In looking at this, you have some quite specific proposals, Mary, for the legislation, attached to it. That was attached last year on 2519. I presume—well, we'll look through them, and to the degree that they are still problems, we'll certainly want to take a good look at them.

Ms. BURKE. Some of them are still problems. Some of your language is—I agree with Bob that some of your language is so much more precise this time, that some of them may have been solved.

Senator EVANS. Yes.

Ms. BURKE. I think they were comments, last time, of both form and substance.

Senator EVANS. Okay.

Ms. BURKE. We'd have to sit down and compare the two bills together. As I said, we do have some questions about some of the interpretation of the language. It think it's very obvious, a number of us this morning interpret the conservation language, for example, quite differently. And we would like you to consider, at least, making that language much more specific and plain to us.

Senator EVANS. It may be necessary to do so, because in the testimony—I think it was in Frank Falen's testimony—in talking about some of the conservation requirements in the farm program and in FHA and Farm Credit System loans, that's at least not what I had in mind as a concept. It was really the hope that we can move ahead and develop a conservation plan which would be effective because there would be benefits attached, you know, to conservation. And I think unless that happens, unless there are clear financial incentives attached to the potential for conservation, that we won't get very far in that effort.

Ms. BURKE. We appreciate that, Senator Evans. But I think, if you recall, in the Farm Bill, some of the conservation reserve requirements, for example, precluded keeping your water right. And there was some changes in State legislation. I think Sid was aware of that. We did that in a number of states in the West. And there are other Federal programs that at times do complicate or supersede what you are trying to do here, and that's what we would like to avoid.

I don't believe that the language is specific as to that it's a voluntary program, and there are benefits attached. I guess I just disagree at this point that it says that that plainly. To me, and I think any farmer—particularly those with nonsubsidized crops—are very very nervous over what Congress does with those issues.

Senator EVANS. And that's something that our legal work group, I'm sure, will want to take a very careful look at, to make sure that we're clear in what we say, and that it does fit with other legislation, and doesn't either get superseded by it, or inadvertently supersede some other legislation or end up in conflict with it.

Again, Frank, in your testimony you said, "We would like to see the conservation section clarified so that it applies in all cases only to waters for additional purposes, and will not conflict with existing or future conservation plans for other purposes."

Would you agree, however, that it would be useful to—some earlier testimony indicated that there might be a benefit in broadening the potential for conservation, so that even those water users with existing water rights guaranteed might well find that it's to their financial advantage to engage in water conservation and be able to, in dry years, for instance, rent back some water that they figure they can get along without.

Will you agree that, at least under those circumstances, we ought to give that potential or that opportunity to current water users as well as new ones?

Mr. FALEN. Senator Evans, I think I'll refer that question to Mary Burke. She's a lot sharper on that end of it than I am.

Senator EVANS. Sure. Okay.

Ms. BURKE. Well, just at this point.

I think part of the question there, Senator Evans, is the terminology "recipients of irrigation water." And the inference being that if you're a recipient of irrigation water—it's unclear to me if that applies to new waters in Cabin Creek. Or, because of the cross-reference between the project and the Yakima project, and the reference to the Northwest Power Planning Council, does that apply to everybody in this Basin, the tributaries, or new waters for new purposes? And then it refers to "every recipient of irrigation water" has to have a conservation plan. It doesn't say there will be monetary incentives for you to develop a conservation plan, and this water then can be saved. It says if you're a recipient, you're going to have to do one.

If you would delete the words "recipient of irrigation water," and have some other kind of terminology, I think that would satisfy part of our concern. But it still probably doesn't get Frank over his concern over the problem of the conflict with other conservation plans.

Senator EVANS. Sure. I understand that. You bet.

Ms. BURKE. But it's the terminology, "recipient of irrigation water." There are ratables, and proratables, and nonproratables, people who have signed limiting agreements. All of those people are, to a point, recipients of project water. And I don't think you could maybe require—and its says, "recipients of irrigation water." If it said "the district," or if it referred to system improvements or something, I think then it would be more clear as to what we're discussing.

Senator EVANS. Sure. I guess what I was trying to get at, though, would it be valuable from your perspective to take someone who is a current water user, who's had a long-term water right, who is in a priority position so he doesn't worry very much even in dry years about getting cut off? But if a broad conservation plan was developed, then a portion of that plan was to say, "Anticipating dry years, we would be willing to pay $30 an acre-foot," or some figure, for a person's willingness to forego drawing their full water right during that year; wouldn't you agree that that potential ought to be made available to everyone, old and new alike?

Ms. BURKE. Yes; with this caveat, that you have to first give some certainty of the water right so that, no matter what the Federal legislation says, Charlie Rowe isn't going to sue me any more; that the treaty right will not be invoked over and on top of that, nor Kai Lee's proposal to plant fish in the tributaries. There must be a total certainty.

What we need, I guess, is solidified into legislation, the same thing that you're trying to do here, that Congress and Jones tried to do in 1905. If the Federal legislation could specifically, once, quantify and make certain these water rights, we would not need the adjudication. We would have the opportunity for those people who wanted to, to have voluntary conservation plans and voluntary Northwest Power Planning plans, if they so desired. But that cart cannot come before that horse. We have done some other things like that, but legally, no matter what the NCA, or any of us individually will agree to, we are legally compelled by the legal system to—we are not allowed that option until that's——

But yes. Given that caveat, yes, I think that's a very interesting idea. And as I said, the NCA has been pursuing this in other places in the West. And I think you have a most innovative, very useful approach to that; if we knew. But we have to know. At this point we do not know.

Senator EVANS. I understand. I'm not sure that we are even capable by law of resolving all of those, simply because we cannot by law very easily undo treaty relationships, and the judicial interpretation of those treaty relationships. Congressman Jones, later Senator Jones, said in his judgment, "[I]t would insure the satisfactory adjustment of the Indian reservation, so that the claims of the Indians will never disturb the rights of present irrigators."

Congressman Jones, in speaking from what he thought was true in 1905, proved to be monumentally wrong in his statement, based on what's happened since. But I think what we've got to get to, if we can, is the surety of water for all purposes. And the only way we can do that, I guess, is to get more.

Ms. BURKE. But isn't it true, Senator Evans, that Congress can appropriate monies for the Indian treaty component? You can appropriate monies for that. And isn't Congress the only person who can deal with treaties?

Senator EVANS. Well, Congress is the only one who can deal with treaties, but treaties once signed, have two parties. And we can do something which we've never done in the history of our nation, which is unilaterally abrogate a treaty.

Ms. BURKE. No. I don't think anybody wants you to do that.

Senator EVANS. And you see then, if you don't want to unilaterally abrogate a treaty, you've got to get an agreement from both sides on a resolution.

Ms. BURKE. Yes, I understand that. I agree with that wholeheartedly. I would just like to see that same concept apply to the contracts that both parties signed for the delivery of water.

Senator EVANS. Sure. I understand. What we've done over the years—and not speaking either to irrigators or the Tribe—we have just gotten ourselves to a point where we're using more water than there is. There's no use going over how we got here. We're here. And now what we've got to do is find a way to get back to balance. And the only way we can get back to balance, I think, is to find ways to either store more water, or find some ways to conserve water that's now being used, so that we can ultimately get to a point where we can restore the fisheries resource and at the same time meet all of the irrigation needs of the Valley.

And while we're at it, I suppose, even have a little drinking water along the way.

Ms. BURKE. Yes. This is very nice, this dry work this morning.

Senator EVANS. Right. Sid?

Mr. MORRISON. Senator Evans, I think the place that our colleague Senator Jones went wrong, he said the Secretary of the Interior "assured me unequivocally" that he would deal with it, and so forth. I think he placed his confidence in the Secretary of the Interior, and what these folks are asking is that we define in law what in fact we're going to do as far as this project is concerned. And that's right.

Mary, just one question of you.

We thank all of you for supporting the inclusion of a storage component.

You also indicate you'd like to see, though, the feasibility monies for the construction of Bumping Lake and Wymer, in addition to Cabin Creek. That's music to my ears, but I guess we may have to walk that fine line.

The question is, would you rather see Cabin Creek out, if we can't include the others, or should we leave it in, if in fact this turns out to be the reservoir that we can reach out and touch right now?

Ms. BURKE. I guess that I would have to again say that I share Mr. Sampson's fears that that may be all we ever get. Perhaps you read the House and Senate, certainly, better than we do. I guess I can't honestly answer that question. We have to sort of go on your political judgment, and some faith, in the same way that poor Mr. Jones was going on that Secretary of Interior's faith.

But I think that's a judgment call at this point that I'm not maybe able to make this morning. You know, you've told us for years, Sid, that if the irrigators and the Tribal government would ever agree on anything, it would have a real opportunity to go somewhere. And I think if you read that report to the Policy Group, that at least where we have now come to this much of a consensus—of course, I'm not one of those people that ever felt we were all going in that many different directions either, because my family has been here next longest to the Indians.

I do think that that kind of consensus is something perhaps you should be made aware of, and maybe talk—I would be very comfortable if you would talk to the Tribe about it and ask them to what point they would support vigorously those. And I certainly think they can come to us—certainly to the NCA. We've dealt with several Indian nations on other water problems before.

I really think you ought to take a hard look at the fact that we have now got where you wanted us to go. I understand there's other things that keep coming to the party.

But to that point, Sid, I can't make that political judgment call; but my fears are the same as the Indian Nation's. I would obviously like to see you do it all, because quite flatly, I think it's a Federal obligation.

Mr. MORRISON. We have to admit that the judgment call that includes Cabin Creek in this bill was not only to get your reaction here, but very frankly to get the reaction of our colleagues as we now push this legislation. Of course the potential, I suppose, is there that Cabin Creek will come out; but if so, we still will have won the victory that we wanted, and that's to get early implementation under way.

Ms. BURKE. Well, I guess I can guarantee you, if the Yakima Indian Nation wants to go to Congress and testify in favor of building Bumping Lake, I will see that the NCA provides a few people from my group.

Mr. MORRISON. We also may need a warring party of some sort. [Laughter.]

Ms. BURKE. A what? I thought we weren't going to have those any more.

Senator EVANS. Well, I think just to add to what Sid has said; it is hard. I don't feel comfortable in making an easy judgment as to which is the best way to go to gain what we want to gain as fast as we can gain it. The fact, however, that there has been willingness to work together, and there has been general agreement, has gotten us to where we are, which is a pretty significant set of projects in the river, and in the river much earlier than most people thought we could get there when we started.

I think the early implementation project, with or without Cabin Creek, the rest of it is, you know, very doable, and I think, doable promptly. And I wouldn't mind—my first choice would be probably the same as yours, and that would be to have all this—have this not be an early implementation project, but a final solution.

I guess ultimately we'll have to try to figure just how fast we can move. And then it's probably a collective decision. We can get all the information we can get, and we'll probably have to share it with all of you out here, as to whether—if we can't get everything, how far we want to move at this point, and how we proceed in the next and final stage. I think your concerns are understandable, and we share some of them.

Ms. BURKE. Thank you. We appreciate it. And I think you should understand, I don't feel like I have 20 years more, either.

Senator EVANS. Thank you very much.

Next is panel number 6; J. Jarrette, Attorney at Law, Sunnyside, Washington; Urban Eberhart, Member of the Board, Kittitas Reclamation District; Dennis Faltmarsh from Zillah, Washington; and Jeff Dunning, Superintendent of the Ellensburg Water Company, from Ellensburg, Washington.

Welcome to the hearing. As we have before, we'll certainly be happy to include your total statements in the record. You may proceed as you wish in your oral statements, starting in the same order as you were introduced.

Mr. Jarrette.

STATEMENT OF J. JARRETTE SANDLIN, ATTORNEY AT LAW, SUNNYSIDE, WA

Mr. SANDLIN. Senator and Congressman, thank you for letting us have the chance to talk.

I'm J. Jarrette Sandlin, and I'm here not in my attorney capacity necessarily.

Senator EVANS. We left off a little——

Mr. SANDLIN. Right.

Senator EVANS. We were being familiar, I guess. But the name was left out. All right.

Mr. SANDLIN. Senator, I'm not here representing clients through the Sandlin law firm. I'm here because my brother and I are farmers on the Roza Irrigation District, which is one of those districts you've heard of today in other testimony.

However, I am here to share some things that have not been discussed with you today, and also some observations as a Washington farmer, and as an orchardist here on the Roza Irrigation District, and my personal opinions, based upon representing approximately 2,500 farmers, ranchers, and businessmen in the Yakima River

Basin, and some of the opinions that I've heard expressed in my law firm as they relate to water resources.

First of all, I was impressed today by the consensus of opinion from all of the water users in this valley. I suspect that it is from several origins. Number one, we've been litigating for so long now, and we've spent millions of dollars in attorney's fees, and we've all been using too many Tums for our ulcers because of this extended litigation. We're probably shellshocked and litigation-weary.

It was nice to see Tribal Councilman Melvin Sampson here today pushing the Bumping Lake Reservoir. It was also nice to see—and I'd like to paraphrase him possibly—suggest that the Cabin Creek enlargement is sort of like a kiss from your sister. It's pleasant, it's nice, and you appreciate it; but you want some more, and you can think of some more exciting things, and not necessarily with your sister.

In this instance, I think that Melvin Sampson has probably hit the nail on the head. However, we don't want—or at least my brother and I don't want, as growers—for you to just simply assure the Senate and the Congress that, well, if we have this much, we won't be back for more. And alternatively, well, if we need more, perhaps we ought to take a second look at this, you see. It's a Hobson's choice.

You've got make a definitive decision right now to go forward with this, right now. And we need it badly. Our orchards, right now this years, are drought stressed. Our water was turned off over a month ago, and our trees have been injured by the failure to put them into the winter now, properly irrigated.

As most orchardists know—and I'm certainly not going to try to preempt the orchardists here, because I spend more time in my law office than I do up there on the farm—most orchardists know that if you take these trees and put them in dry for the winter, and you have a cold winter, you're going to have a winter kill, especially on 6, 7, and 8 year old trees like we've got. Frankly, I've put my livelihood, my entire life, on the line with this orchard, and I want it to be successful.

Now, you mentioned something—and this is what I wanted to share with you—you mentioned a benefit/cost ratio, and you were informed by Mr. Keys that the benefit/cost ratio was 1.5 to 1 for this Cabin Creek project. And I recognize that you, as a legislator, as Congressman—excuse me, Senator——

Senator EVANS. I should correct that. I think he said 1.5 to 1 on the remaining cluster of projects, leaving out Cabin Creek.

Mr. SANDLIN. All right.

Senator EVANS. They've not yet reached a cost/benefit ratio on Cabin Creek.

Mr. SANDLIN. Well, that's good, because I suspect that the cost/benefit ratio of Cabin Creek as compared to, of course, Bumping Lake—and I'm in agreement with my Indian friends in the Yakima Nation—the Bumping Lake Reservoir would certainly have an excellent cost/benefit ratio as compared to Cabin Creek. It think everybody recognizes that without even measuring it.

However, when Jim Trull was playing basketball for Granger High School in the same team I was on, his daddy was our ditch rider up on the Roza, and the first feasibility study for the Bump-

ing Lake Reservoir expansion was already 10 years old. I suggest to you that even though now he's representing the SVID, which has been running brim full for the last month while my trees have been dry, we do still have a consensus of opinion that that Bumping Lake Reservoir ought to be done.

However, your cost/benefit ratio, I think, is too far downstream. You're ignoring what I estimate to be one of the major impacts on this entire river basin—and not you, personally, Senator—but when you consider where we are now, and where we're going to go, I think it's improper to consider where we are now and where we're going to go.

I think that when you're selling this bill to Congress, you ought to explain to them very carefully—and there have been tens of thousands of dollars spent proving this in the litigation we've finished so far—that in the beginning, when—well, not necessarily the very beginning—but when the Warren Act contract water users were first encouraged to come to this river basin, they were encouraged to do so because Warren Act contracts had been negotiated for these excess storage facilities. When the project was first placed on line, it looked like there was going to be excess storage, and we could take some more land out and develop it.

And there was a good strong development movement going on at the turn of the century, and so, let's get Roza on line, and let's get Kittitas Reclamation District on line, let's get Wapato Irrigation Project on line with some Warren Act contract water. So we were enticed to come on in here, and I think that's what Mr. Jones was saying, Barbara Lisk was saying, and some other growers were saying.

Well, when we were enticed to develop our farmland by the Government representing that the Warren Act contract storage facilities had been adequately developed to assure the delivery of irrigation water supplies to Roza farmers pursuant to this Warren Act contract, we were then told at around 1939, when the big lawsuit between Kittitas Reclamation District and Sunnyside Valley Irrigation District was filed, that there wasn't going to be enough water for everybody. And so that started up the lawsuit for the proratables versus the nonproratables. And I know you've been staffed on this, and so I'm not going to go into the technicalities of it.

However, as a result of that lawsuit, as you know, in 1945, the contracts, these Warren Act contracts, were incorporated by reference in this so-called consent decree in this Federal court case. And when they were incorporated by reference in that landmark case, the consent decree gave the the U.S. District Court continuing jurisdiction to enforce all provisions of that decree.

Now, the only reason I'm bringing this up is that it's my belief, based on my legal analysis of that consent decree, that all of the parties, including the United States, granted the U.S. District Court power to enforce the stipulations which were entered between the parties. It's clear that the U.S. attorney had the authority of the Justice Department, and the U.S. entered those stipulations.

Accordingly, it's my belief, based upon my legal analysis of the consent decree, that the District Court can impose obligations upon the United States to develop sufficient storage facilities to assure the delivery of Warren Act contract irrigation water supplies to

farmers such as the Roza Irrigation District farmers, even in times of water resource shortages.

Now, that analysis is buttressed by the fact that the U.S. developed the Yakima project reservoir in such a negligent manner that from the commencement of the project operation, it was necessary for the Government to rely upon the annual snow pack as an additional reservoir to recharge the man-made reservoirs on an annual basis. This is ludicrous.

This ludicrous engineering plan was doomed to failure from the very beginning, as it is impossible to capture snow runoff when the reservoir facilities are too small; they're too inadequate. Consequently, each spring, the Bureau of Reclamation is obliged to spill irrigation water resources to avoid spring flooding. Later, in the irrigation season, there are inadequate water resources available for Warren Act contract users when the snow pack is insufficient. We've seen that this year. We saw it in 1977. We saw it in 1979. I anticipate, unless something happens, dramatically, in our weather forecast between now and next spring, we're going to have the same problem next year, only it's just going to be exacerbated that much more.

What I am suggesting to you is that, in your analysis of benefit/cost, you should, as an advisor and an advocate for us, but also as an advisor to sell this bill in Congress, explain that there is a hidden exposure to the United States if people like Roza farmers have to lose these orchards. It's true that we can't show a Federal court right now what our damages are, until the damages are already there and our trees are dead, or our other crops have been destroyed.

At that time, of course, my brother—who is a professional farmer, if there is such a thing—and I are going to be out of that farming business, of course. We'll be bankrupt. But we certainly will be damaged, and we'll be damaged where we feel that the District Court is going to be able to compensate us because the Government failed to honor those Warren Act contracts which promised us that we would have adequate water to farm our orchards.

And those Warren Act contracts have been incorporated in the consent decree which gives the Federal court a special power that ordinarily a Federal court would not have. The United States will stand up and say, "Wait a minute, judge, you can't make us build a dam." Well, that may or may not be true.

In the usual sense, in the general rule, you can't enjoin the United States to make them do something. But you can—if the United States has agreed, by consent, in a consent decree, to fulfill it's promises—you can make them fulfill those promises if the Federal court has retained jurisdiction to do so. And I think that our Federal judge is more than willing to do that for us—at least I hope so—because the Federal judge has been very encouraged in the last few years by the working relationship he's seen between counsel in that Federal court between the fishery interests and the Yakima Nation, and the irrigators that have junior rights like Roza farmers.

And so I'd suggest to you that you should sell this bill because we want it. I don't think it's the panacea of all of our problems, but

maybe we can get a drink of water soon if you get this bill through, until you can finally complete all of the enhancement project.

But we feel that there is a hidden cost—or at least I do on my analysis—that you should crank into the benefit/cost ratio, because I'd suggest to you that your benefit ratio, if you figure this, is about 7.0 to 1. The reason I say that is, when CH2M Hill provided us some studies of the potential damages if our crops were lost, in the last few years we estimated that our potential crop loss was $1 billion for junior water rights. Now, that's the price of a Trident nuclear submarine. And we'd suggest to you that if Congress can go off and drop bombs on some empty deserted oil rig in the Persian Gulf, and the stock market drops 400 points in one day, that possibly for the next 200 years, Congress ought to consider that this Yakima Enhancement Project would certainly be a much more favorable investment of funds. [Applause.]

Senator EVANS. Thank you.

Mr. Eberhart.

STATEMENT OF URBAN EBERHART, MEMBER OF THE BOARD OF DIRECTORS, KITTITAS RECLAMATION DISTRICT, KITTITAS, WA

Mr. EBERHART. I am Urban Eberhart, a director of the Kittitas Reclamation District, which is a proratable district consisting of 59,000 acres in Kittitas County and is located in the upper Yakima River drainage basin.

Thank you, Senator Evans and Congressman Morrison, for the opportunity to testify on behalf of Senate Bill 1435.

As you are aware, this has been an extremely dry year in the Pacific Northwest. Water storage in the Yakima River Basin is at its lowest point since 1973. This has already created serious problems for farmers in the proratable districts. Due to inadequate supplies in the Basin, water delivery in the Kittitas Reclamation District was discontinued on September 8th, which is 5 weeks earlier than the normal shutoff date. Pastures, hayfields, orchards and other croplands have had no fall rains and no irrigation water at a critically important time.

Of even greater concern to the farmers of our district than the early shutoff and the dry fall is the prospect of a light snow pack this winter, and failure of the reservoirs to fill. Reservoir water will continue to be released for salmon incubation flows in the Yakima River system during the winter and early spring months, which decreases the amount of water available for proratable districts during the 1988 growing season.

The point of these observations is to emphasize the critical and urgent need for Congressional action to speed up the Yakima River Basin Water Enhancement Project. This program was begun as a direct result of the properly perceived threat to the proratable districts in 1977. The fish enhancement projects have moved forward rapidly, whereas irrigation water enhancement has been minimal to date. It is important that S. 1435 be passed, and the storage and conservation measures outlined in it be implemented as quickly as possible.

Thank you.

Senator EVANS. Thank you.

Mr. Saltmarsh.
Mr. SALTMARSH. It's Saltmarsh. Please.
Senator EVANS. Saltmarsh. Okay.

STATEMENT OF DENNIS SALTMARSH, ZILLAH, WA

Mr. SALTMARSH. I'm a farmer on the Roza Irrigation District also. I came in support of S. 1435, and just wanted to put my—I'm trying to get my—my butterflies are kind of out of formation right now. This is all new to me. It's like an infantry captain all of a sudden being shoved into a general's shoes and seeing the big picture. It's quite interesting.

Cabin Creek is an interesting concept, and I can see water right there, now. I see it full.

And I look back, and 10 years before, we had the drought in 1979. We had, you know, that much notice that this was going to happen. And the probability is that this is going to happen again. It's taken us 10 years past that drought, and we're in another one, and there's talk of it being an extended drought. And all of a sudden, like you said, the people on the western side of the State who are used to getting that marine shore bump, are finding out what drought is. And maybe some of these things will come to pass. These are nice.

I was also interested in making a statement for the Bumping Lake increase in that storage area.

Also, I would be interested in knowing what, at a time when--well, three times in the past 10 years that I know of, that Rimrock Lake has been completely drained. How come that possibly hasn't been explored as being dredged out, or graded out, or moved out? And some of that may be increased. It would also not only increase the storage, but it would also make it nicer, when it's full of storage water, as a recreational lake. It would increase its enhancement in that case.

In the past, we had the Selah Reregulation Reservoir, and it was brought up by our representative in our State House as a solution to some of our problems, but the Selah Reregulation Reservoir seems to have dried up and blown away, and all we've got is $14 million sitting some place in limbo. And the important thing that they found out there, I think, was that in order to have a reregulation reservoir you have to have something to reregulate. And we go back again to seeing that lake full.

Like I said, I'm in support of the bill.

I would just like to say a couple of things now—I'm a little dry at the mouth. This is a new experience to me as being just a citizen off the street. I was going to come in and say, "I'm a farmer, and I'm in support of the bill."

But this process, as a citizen, is—the bewildering part of it for the common citizen—and I've been kind of getting active into the political field as a grassroots activist—I can see why the common citizen is being excluded from government and from the decision-making policies. I received a letter—when I said I'd like to support the bill and be able to put my name on record as supporting it, I received a letter from a staff office in Washington, DC, with my name misspelled, and it said if I wanted to introduce my thoughts

into this committee I had to have 15 copies to be able to go on record. I just can't come in here and sit down and say, "I would like to put my name on record as being in support of this bill."

And there's no way to guarantee that—well, and you pointed out that in order for my thoughts—they're fine here to sit and talk to you about it, but when it comes down to the final analysis, it's going to be all those staff members that are not looking at my thoughts right now, and as you said, have no way of knowing my thoughts. And are we supposed to be able to bridge that gap? So I'm becoming quite—a little disillusioned at this prospect of it.

Also the fact that when I sent my name in quite early, the—and I've seen this done on other committees, at the State level—that when the testimony is set up, the people with the titles—and I thought being Dennis Saltmarsh, Citizen, was a title—are in here. And I notice the room is quite dramatically decreased in size from 10:30 when we walked in the door. I would like to think that my viewpoint, as a farmer on the Roza, has some count, accountability with our government.

And I'm also disappointed in that Senator Brock Adams was stated as supposed to have been here. I don't appreciate his letter, because as far as Brock Adams is concerned, this has nothing to do with Hanford, and he hasn't been in this state in the past 10 years, except to politic anyway, so why should he care about Eastern Washington?

I'm sorry. I'm through. Thank you.

Senator EVANS. Thank you. And I want to get back to comment on that, because it may not be quite as bad as you think. It might be just the other way around, especially from your testimony this morning. But we would like to hear from our last witness on the panel.

Go ahead.

STATEMENT OF JEFF DUNNING, SUPERINTENDENT, ELLENSBURG WATER CO., ELLENSBURG, WA

Mr. DUNNING. Senator Evans, Congressman Morrison, on behalf of the Ellensburg Water Company I would like to thank you for conducting this hearing in the basin in order for us all to comment on the proposed legislation.

For the record, my name is Jeff Dunning. I am superintendent of the Ellensburg Water Company. The Ellensburg Water Company has owned and operated and maintained their own irrigation canal system since 1885. The canal provides water to 10,800 acres in the Kittitas Valley. The Board of Directors have asked that I present the following for the record:

We have been concerned with, and closely followed, the chronology and direction of the Yakima Enhancement Project since its inception. When first conceived in the late 1970's, we understood the Yakima Enhancement Project's purpose was to provide additional storage capacity for various uses by the multiple resources of the Yakima Basin. Preceding storage has been Phase I, number fish passage and protective facilities authorized by Congress in 1984.

In 1981, the United States, through the Secretary of Interior, filed with the State of Washington for a certificate withdrawing all

the unappropriated waters of the Yakima River and its tributaries. In 1984, congressional legislation authorized the construction of fish passage and protective facilities. We perceive that authorization included language assuring said facilities would require no additional water above and beyond the then-present operations of the Yakima project.

United States Bureau of Reclamation documents dated October 1st, 1987 state that 100 cubic feet of water will be needed to operate the fish ladder at Easton Dam under all flow conditions, and 120 cubic feet per second to operate the fish bypass. Also listed are water requirements necessary to operate the facilities at Sunnyside diversion dam. The document ends stating, "Yakima and Kittitas are the counties where the works for utilization of waters are to be constructed. 'The waters referred to are those withdrawn since 1981, and the works are the facilities authorized in 1984 that we feel we were assured by Congress would require no new or additional waters.

In section I(3) of this Act, a reference is made to storage facilities at the Cabin Creek site. As the United States through the Bureau of Reclamation, states, it has withdrawn all the unappropriated waters of the basin, and the construction of facilities authorized in 1984 are works to utilize those waters, is the intent that if Cabin Creek were built, then waters stored there would be for fishery resource purposes?

Also, in section I(3)(b) it is unclear what the status of the waters irrigation is mandated to preserve prior to commencement of construction of additional storage would be, in view of the United States represent claimed purpose of use for unappropriated waters of the basin. Will other resource entities who benefit from this Act be obligated to develop prudent water management plans?

Section I(a) includes reference to the Pacific Northwest Power Planning and Conservation Act. It is unclear to us what authority the Power Council, through the the Power Act, will have over the Secretary of Interior and/or any entity who is a recipient of, or financial participant in, those portions of the Yakima Enhancement Project this Act proposes.

Section IV authorizes the Lake Cle Elum raise and the K-K pipeline, and that those facilities become part of the Yakima Project. They are to be operated and maintained in a manner in accordance with this act. To us, this again raises a question as to the Power Council's role or authority. Again, if the United States withdrawal is still valid and in effect, what will be the status and purpose of the additional or conserved waters these facilities would provide?

As part of the Northwest Power Planning Council's Fish and Wildlife Plan, it is proposed a central outplanting facility be constructed. The implementation of this facility will accelerate the fish population growth and the need for water for fish and fish habitat. It is difficult for the Ellensburg Water Company to be supportive of facilities such as a central outplanting facility, and further fishery related improvements, without additional storage for their use coming on-line at the same time.

We would suggest that should the Cabin Creek site not prove feasible or practical, an alternative site be included. Bumping Lake

enlargement is a potential project which Indians and irrigators have more or less agreed upon for decades.

As Jim Trull alluded to, irrigators have undertaken efforts to improve their systems. Ellensburg Water Company has spent over $300,000 in the past 3 years improving the efficiency of its system, and in improving canal/creek intersections to insure operational activities do not negatively impact aquatic life in streams. In the past 30 years in the vicinity of $60 million has been spent by farmers in the Kittitas Valley to improve the efficiency of their operations. About half of these monies have come out of the farmers' pockets.

Additional storage is imperative to the effectiveness and feasibility of the improvements in place and proposed for the fishery resources. Additional storage for either fisheries and/or irrigation will be the ultimate solution to the difficulties in this basin. We urge this Act, if and when finalized, put priority on additional storage. Thank you for your efforts in reaching a solution to the problems of our basin, and the opportunity to comment.

Senator EVANS. We thank you very much.

Let me just make a couple of comments. First, to Mr. Sandlin. That's an interesting proposal and concept. You should keep in mind that whatever we do, those of us from the West, when it comes to irrigation or just the whole idea of water and its usage, are in a minority against a majority of Congress, more particularly in the House of Representative than in the Senate, who represent essentially urban areas and generally Midwestern and Eastern areas.

There are Senators who sit on our Committee of Energy and Natural Resources—generally a committee at least in the past composed primarily of Westerners who understood and who worked cooperatively across the political aisle on these issues—we have a lot of different Senators now. We have some from the Midwest, some from the East Coast, and they have a quite different view on water and its usage. Their view, generally, is that government ought not to put anything in there; that they've put too much already, and all we end up with is crops which end up as surplus, and then they come back and want us to pay for the surplus. And so we get a double whammy. The Federal Government puts money in to grow the crops, and then puts money in to buy the crops. And that doesn't make much sense.

And so we've got to fight against that kind of attitude. And we've been, I think, generally successful over the years, in the West.

And I do understand the uniqueness of what you say. It's just that we've got to fight for everything we get. And I think the best way, and the most effective way, will be to get a project, get it going, get the job done. It's not a bad thought, however, and we may just want to expand on that and try it out on some of our colleagues.

Mr. SANDLIN. Senator, may I address that just for a second?

Senator EVANS. Surely.

Mr. SANDLIN. I think that the issues—there are some water issues here that are not traditional Western issues, at least politically, that have been recognized in the past. And I think that those issues—for example, water conservation, and conservation in gen-

eral, fisheries, and the Yakima Nation's interest—are the tail that would wag the dog in this instance.

Because those same political groups that you're suggesting want to shut our water off, and they don't want to support our crops any longer—and that's another issue—would be the ones that would have a very sympathetic ear, I'd suggest, to cleaning up water, both in quality and in quantity, increasing and enhancing the fishery, recognizing those treaty rights of Yakima Nation members.

It seems to me that if we're together with a community of interest, that we can show, as Westerners—and I can only speak as a white man in the West—that we are advocates for all of those interests, and so therefore there is a brotherhood here that our Eastern counterparts should consider, and consider wisely.

I'd also like to say that my brother and I have never received any crop subsidies for raising an apple tree.

Senator EVANS. I understand that.

Mr. SANDLIN. And I don't think that many of the——

Senator EVANS. Be blessed. The farm commodities that are in the biggest trouble in this Nation are the ones that are subject to Federal farm programs.

Mr. SANDLIN. Exactly right.

Senator EVANS. Staying independent is the finest thing you can do for your own safety.

Mr. SANDLIN. So I'd encourage you to even consider the conservation aspect of it as an extremely salable point.

Senator EVANS. It should be, and I think in some instances, will be. But you can't always depend on it. Some of those guys just don't want to spend for water in the West. They have their own interests, and their own places they'd like to spend money. That's part of the political process. You have a variety of opinions, and somewhere in there you've got to—you know, we've got to end up scrapping for what we think is appropriate, and hopefully we'll do well enough.

And that causes me to turn to Mr. Saltmarsh. Believe me, you, probably more than anyone else at this hearing, have said words that will reverberate and give us some cause for action, some cause for really trying to move ahead on what we're trying to accomplish.

Even though you didn't have a written statement, we do a full transcript of these hearings, all of the words that are spoken, and yours will be there. Yours will be on the asbestos pages. [Laughter.]

I think in the process, you've probably given us a stronger and better kind of admonition than almost anybody else. So don't ever back away from the title Citizen. That's the most important one we've got in this country.

Mr. SALTMARSH. I'm just exasperated at the long process. I'm getting a broader view, you know. You see how far back it goes, and——

Senator EVANS. Yep. So am I. I'm sure that so is Representative Morrison. The processes of Congress are extraordinarily long. We set up our system 200 years ago, and we're now celebrating the bicentennial of the Constitution, and we say, what a grand thing they gave us. It was, indeed. But it also is a tedious system, as any free government is. There are a lot more efficient systems, at least

on the surface, but I don't think we'd want to change for any of them.

So sometimes we just have to go along with the tediousness of it, hoping that somehow, in some way, we can keep pushing things a little faster. I think we're on the track here, now.

We've got a lot to take back with us, especially the most fundamental question of all, that I think has been brought up several times, and that is:

Should we go for broke, and expand this whole thing and see if we can't get authorization moving ahead on everything that's necessary to give us the final answer? Or is it better at this point to take a second step, coming back immediately afterwards to take the third and final one? It's a pretty important question. I'm not quite sure what the answer is, at this time.

Mr. SALTMARSH. I see water.

Senator EVANS. Yes. That's right.

Representative MORRISON.

Mr. MORRISON. Just a comment to Jeff. In your testimony, which was very well prepared, you asked a series of legal questions, and I don't think either the Senator or I would pretend to answer those right now. I just want to reaffirm our intent, because we put in a lot of time writing that section, that the facilities that have been put in under Phase I not require additional water for operational purposes. The reason the Easton agreement is so important is because by operating that facility you then potentially set the stage for legal action. And we're now pleased to have the need for that action obviated by agreement between irrigators and the Indian Nation.

Dennis, as a constituent, let me assure you, if you think you get frustrated, you should be in my shoes for a while. But you know, ultimately the system does work. Everyone is heard. And as Senator Evans indicated, your comments will have an influence on a number of people, and thousands of people do end up reading this record before this process works all the way through.

Senator EVANS. In fact, those admonitions, we'll probably—I think we'll tab the pages and make sure that our friends from New Jersey, and Ohio, and some others on the Committee read those first. It will be helpful for the whole process.

Mr. MORRISON. Senator, I might opine that one of the reasons that we have so much trouble on irrigation projects with some of our colleagues from some of the other states is, they haven't been hungry for a while.

Senator EVANS. That's right. And they haven't had to pay much for food for a long while, either, compared to citizens around the world.

Mr. MORRISON. That's true.

Mr. SANDLIN. Senator, one thing—and Congressman Morrison—I did read some comments from a proposed letter. It's a rough draft to you, Congressman Morrison, and also Senator Adams. May I incorporate by reference that letter in this transcript?

Senator EVANS. Surely.

[The letter follows:]

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October 15, 1987

The Honorable Brock Adams
United States Senator
2988 Jackson Federal Bldg.
915 2nd Avenue
Seattle, WA 98174

The Honorable Dan Evans
United States Senator
The Senate
Washington D.C., 20510

The Honorable Sid Morrison
United States Representative
House of Representatives
Washington D.C., 20515

Committee on Energy and
Natural Resources; Sub-
Committee on Water and
Power
360 Dirkson
Senate Office Bldg.
Washington D.C., 20510

Re: Issue of Urgent Concern
(Water Resources and Potential Drought)

Gentlepersons:

I wish to share with you an area which I consider of great importance and utmost urgency for your information:

Eastern Washington irrigators are facing critical water shortages for the foreseeable future.

I am a farmer and practicing attorney in the Yakima Valley, with offices in Sunnyside, Washington. Our family farm is located on the Roza Irrigation District, which is in the Bureau of Reclamation Yakima Project boundaries. As you are aware, the irrigators in the Yakima Project have been embroiled in litigation between themselves and the Yakima Indian Nation for years. This costly, never-ending litigation morass has drained our resources, both financially and emotionally.

Farmers in this valley have had to face the devastation of Mt. St. Helens, water shortages in drought years (1977, 1979, 1987), rampant inflation and usurious interest rates (1980-1983), the threat of pest invasion (apple maggot), and destroyed agricultural markets (1987 surplus apple crop with no marketing vehicles).

This year the Roza Irrigation District cut off Roza farmers' irrigation water supplies over a month earlier than the normal irrigating season, leaving farmers' orchards and other permanent crops in jeopardy of drought stress. It appears very likely that 1988 will be a devastating year for Roza farmers, as precipitation is dangerously below normal levels.

What you should understand is that the United States Government enticed Roza farmers to develop their farm land by representing that Warren Act contract storage facilities had been adequately developed to assure the delivery of irrigation water supplies to Roza farmers, pursuant to the Warren Act contracts which were negotiated to assure delivery of such irrigation water to these farmers. These contracts were incorporated by reference in the so-called "consent decree" entered between the United States and Roza farmers, among other litigants in the landmark case of Kittitas Reclamation District v. Sunnyside Valley Irrigation District, U.S. District Court, Eastern District of Washington, Cause No. C-21 (1945). This consent decree gives the U. S. District Court continuing jurisdiction to enforce all provisions of the decree.

It is my belief, based upon my legal analysis of the consent decree, that the parties, including the United States, granted the U.S. district court power to enforce the stipulations which were entered between the parties. It is clear that the United States Attorney had the authority of the Justice Department and the United States to enter those stipulations. Accordingly, it is my belief, based upon my legal analysis of the consent decree, that the District Court can impose obligations upon the United States to develop sufficient storage facilities to assure the delivery of Warren Act contract irrigation water supplies to farmers such as the Roza Irrigation District farmers, even in times of water resource shortages.

This analysis is buttressed by the fact that the United States developed the Yakima Project reservoir system in such a negligent manner that from the commencement of the project operation it was necessary for the government to rely upon the annual snowpack as an additional "reservoir" to recharge the man-made reservoirs on an annual basis. This ludricrous

engineering plan was doomed to failure from the very beginning, as it is impossible to capture snow run-off when the reservoir facilities are inadequate. Consequently, each spring the Bureau of Reclamation is obliged to spill irrigation water resources to avoid spring flooding. Later in the irrigation season there are inadequate water resources available for Warren Act contract users when the snow pack is insufficient.

Your help is needed to bring to the attention of Congressional leaders the urgency of proper development of expanded reservoir facilities for the Yakima River Basin. Please help us bring this urgent issue to the attention of all Washington citizens and be our advocates in Washington, D.C. for responsible water resource development.

Thank you for your kind courtesies regarding the above remarks. Please do not hesitate to call or write if you have any questions concerning this correspondence.

Very truly yours,

J. Jarrette Sandlin

JJS/jt

Senator EVANS. And that gives me a good opportunity to say to everyone here that the record will remain open, as I said at the beginning, for another 2 weeks for additional comments that anyone wishes to give to us, anything that has been brought up by the testimony given here today that generates additional ideas. All will be helpful.

It's our intent to go back and to work with the material we now have to try to revise and to improve the bill that's now in front of us. And it would be my hope at least to move as promptly as we can on the Senate side, and I know Representative Morrison would like to move on the House side. We'll just see how far we can get, and how much we can do.

I know we leave here with the one thought from everybody: "Whatever you do, do it quick."

With that, unless there's further word, this hearing is adjourned.

[Whereupon, at 2:10 p.m. the hearing was adjourned.]

[Subsequent to the hearing the subcommittee received the following:]

FRIENDS OF THE EARTH

TESTIMONY OF THE N.W. OFFICE
FRIENDS OF THE EARTH

submitted to the
Subcommittee on Water and Power
Senate Energy and Natural
Resources Committee

on S. 1435

19 October 1987
Yakima, WA

Northwest office 4512 University Way NE Seattle, Washington 98105 (206) 633-1661

My name is David E. Ortman, Northwest Representative for Friends of the Earth, 4512 University Way N.E., Seattle, WA 98105. The N.W. FOE office covers the states of WA, OR and ID which has approximately 1,800 members. We previously submitted extensive comments on what is substantially the same bill to your Subcommittee's Field Hearing in Yakima last year. Perhaps these Yakima field hearings are to become an annual event.

Friends of the Earth has had a long-term interest in the Yakima River Basin. I testified at a BuRec public hearing on 19 April 1977 on the Bumping Lake Enlargement DEIS. On 25 April 1979 I testified before the House Committee on Interior and Insular Affairs in WA D.C. on H.R. 3489, a bill to authorize an enlarged Bumping Lake dam (which we opposed) and H.R. 2757, a bill which became P.L. 96-162 directing the Secretary of the Interior, with oversight by the U.S. Geological Survey, to conduct a feasibility study of the Yakima River Basin Water Enhancement Project.

On 6 July 1982, here in Yakima, I submitted a report to the N.W. Regional Power Council on the Proposed Yakima River Basin Fish and Wildlife Recommendations under the Regional Power Act. A copy of that report was attached to my testimony of last year. On 22 October 1982 I submitted testimony to the N.W. Power Planning Council on the Draft Fish and Wildlife Program and on 7 September 1983 testified before the Council on proposed Yakima fish passage.

On 20 September 1982 I submitted written comments to the BuRec on its Phase 1 Study Team Report on the Yakima River Basin Water Enhancement Project and on 22 July 1983 submitted written comments to the BuRec on its Phase 2 reevaluation of potential storage reservoirs. In June of last year, I submitted comments to the BuRec on its Phase 2 Status Report. Copies of these comments were provided to the Subcommittee, but despite my specific request were not made apart of the hearing record.

Since neither a State or Federal Environmental Impact Statement has, to date, been prepared, it is incorrect to say that a Yakima River Basin Enhancement Project exists or has been agreed to. Since 1979, the joint work of the U.S. Bureau of Reclamation (BuRec) and the WA Department of Ecology to carry out P.L. 96-162 has, however, revealed several non-controversial elements which appear to have merit, regardless of any total resolution of the complex issues in the Yakima River Basin.

The first such identified element was the need to rehabilitate fish passage facilities at existing irrigation facilities. In 1982, we supported H.R. 5301, a bill to rehabilitate the Yakima River basin anadromous fish runs. Thanks to the work of Senator Evans and Representative Morrison, a similar bill passed Congress in 1984, which authorized construction of these fish passage facilities, correcting decades long functional design problems which had plagued upstream anadromous fish passage.

Last year we reported that the Wenatchee National Forest has just released its DEIS and Proposed Land and Resource Management Plan. According to the DEIS (p. II-29), their Preferred Alternative (C) will increase annual water yield 13,300, 19,100, and 23,900 acre-feet in the first, second, and fifth decades. According to the Proposed Plan, roughly half the Forest is in the Yakima watershed. Yet, the Wenatchee National Forest makes no effort to

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determine when this increased water yield will take place. If it occurs during times of peak runoff, this water yield will be wasted. If, however, water yields from the forest could be delayed longer into summer, instream flows would receive additional benefits. The FEIS has not yet been release. We once again request this Subcommittee to obtain a water conservation evaluation from the Wenatchee National Forest.

In our view, the Yakima River Basin is like a sponge and that sponge should be squeezed tightly before additional dams are built. It is our position, that the primary reason for the current difficulties in the Yakima River Basin lies in the fact that under the 1945 Consent Degree, of the three major needs (senior irrigators, junior irrigators and instream flows) only senior irrigators get their allotment, come hell or low water. We believe that all water requirements could be satisfied over the long haul, if the occasional water short year were shared. Certainly, instream-flows and junior irrigators have borne the brunt of shortages in the past. If the shortages were shared among with the senior irrigators (with compensation) we believe that new dams in the basin could be avoided. Water conservation remains the least environmentally damaging alternative.

As I noted in 1986, one reason for the lack of certainty concerning remaining water conservation benefits is that Section 390jj(b) of Public Law 97-293 has still not been carried out:

> "Each district that has entered into a repayment contract or water service contract pursuant to Federal reclamation law or the Water Supply Act of 1958, as amended (43 US.C. 390b), shall develop a water conservation plan which shall contain definite goals, appropriate water conservation measures, and a time schedule for meeting the water conservation objectives."

The N.W. Regional Power Planning Council, recognized the importance of water conservation and in its 1984 Columbia River Basin Fish and Wildlife Program:

> "Each Yakima River Basin irrigation district that has entered into a repayment contract or water service contract pursuant to federal reclamation law or the Water Supply Act of 1958, as amended (43 U.S.C. 390(b), will promptly develop a water conservation plan which will contain definite goals, appropriate water conservation measures, and a time schedule for meeting the water conservation objectives." (904(a)(4)(B)

Despite this clear language, no water conservation plans have been forthcoming from the districts with senior water rights. In 1986 I requested that this Subcommittee obtain from the BuRec a list of all conservation plans prepared by Yakima River Basin irrigation districts to date. If you have such a list, you will see why quantifing water conservation measures remains a major task in the Basin.

S. 1435 states in Section 1.(a) that the propose of the bill is for the

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"protection and enhancement of fish and wildlife. . .". We find that fish have been at the bottom of the ladder in the Yakima Basin. The purpose of the bill should correctly state that the purpose is to mitigate for past losses.

S. 1435 also identifies several elements which are proposed for authorization by Congress. We are concerned that the Cle Elum Lake enlargement and the proposed authorization for Cabin Creek are to be carried out without a full NEPA review. In addition, because these projects may be used to help ensure adequate instream flows for fisheries and supplemental irrigation to junior districts, a basic question remains unanswered: Since the 1945 Federal Court Consent Degree (Civil Action No. 21) appropriated all flows in the Yakima River Basin, can additional reservoir projects or expansions be considered "new" water?

The 1945 Consent Degree, the BuRec and the Department of Interior suggest they can not.

> "2, The obligations of the United States to deliver water from the natural flow of the Yakima River, and its tributaries, from storage in its various reservoirs on the Yakima watershed, and from other sources, to the plaintiffs, to the defendants, and to the lands within the Wapato Indian Irrigation Project, are as set forth hereafter in this judgment." (emphasis added). (1945 Consent Degree - page 2.)

> "Prior to construction of enlarged Bumping Lake, an application would be made to the State of Washington for a storage permit to increase the present storage of Bumping Lake to 458,000 acre-feet.
> "This right would be junior to all existing rights in the basin." P. 50-51 of Bumping Lake Enlaragement, Joint Feasibility Report, June 1975, Yakima U.S. Dept. of Interior.

A Department of Interior Soliciter's opinion of 2 January 1979 supports this position, as well.

The BuRec, in its "Preliminary Evaluation of Nonstorage Elements Being Considered For Early Implementation" argues that such assurances can be given. Without identifying any specific cases, the BuRec appears to be relying on a 1978 Federal District Court case regarding the dead storage water issue from Cle Elum Reservoir. We would maintain that dead storage water is a fundamentally different question from whether flows, which would normally proceed through the basin, but could be held behind a reservoir, constitute "new" storage water.

The Yakima River Basin is an apparently productive one. However, it should be pointed out that according to the Bureau of Reclamation 1983 Summary Statistics Vol. I, Water, Land, and Related Data - Crop Production Report, p. 138, the largest single crop by area in the basin is irrigated pasture (70,647 acres out of 367,669 total. Total forage was 139,242 acres.) The largest single crop value was apples ($145,208,680 out of $421,320,472 total. Total fruits were $27,367,825). At this time when apples lie rotting in the orchards, and production far exceeds markets, do hay and apples really

merit Congressional funding?

Justification for such funding should be based on the ability of lining of sections of canals; replacement of gravity systems with pressure distribution systems; and improvements in onfarm water management can make to water conservation efforts. The current Yakima Basin Project repayment schedule should be looked at carefully.

While we strongly support the idea of water banking and establishing a water market, we question how this can be done in the absense of a completed water rights adjudication in the basin. It appears that the State of Washington has every intention of dragging out the current court process indefinately.

In conclusion, we oppose passage of dam authorizations in the absence of a full environmental review. We are not convinced that all water conservation measures have been wrung out of the Yakima Basin, or that more structural solutions are necessary at this time. Thank you for the opportunity to submit these comments.

October 27, 1987

The Honorable Senator Daniel J. Evans
324 Hart Office Building
Washington, D. C. 20510

Dear Senator Evans,

In regards to: S 1435, Water and Power Subcommittee Public Hearing, Yakima, WA, October 19, 1987.

I appreciated the opportunity to listen first hand to your comments and those of Representative Morrison as well as the input from the various witnesses at hearing in Yakima. My letter today is directed specifically at two comments that you made early in the Hearing while viewing aerial photographs of the proposed Cabin Creek Dam and reservoir site.

The photograph showed that much old growth timber on the area which would be flooded by the proposed reservoir has been harvested within the last twenty years. In reference to that fact you made a comment to the effect that the area is pretty well cleared off. My purpose in responding to that comment is to bring to your attention the fact that the forest land which you referred to as "cleared off" is under management for the continuous production of forest products. I have attached two photographs taken within clearcut harvest units below the proposed high water level in the Cabin Creek drainage. Each of them shows young trees growing on the site. Regardless of which public agency or private firm is managing specific land parcels in Cabin Creek, the process of timber harvest, forest regeneration and culturing the new crop trees through to maturity is essentially the same. The objective is to utilize the land to grow a valuable crop while at the same time protecting important water, fish and wildlife resources and providing the public with the opportunity to enjoy a wide range of outdoor recreation activities on the land.

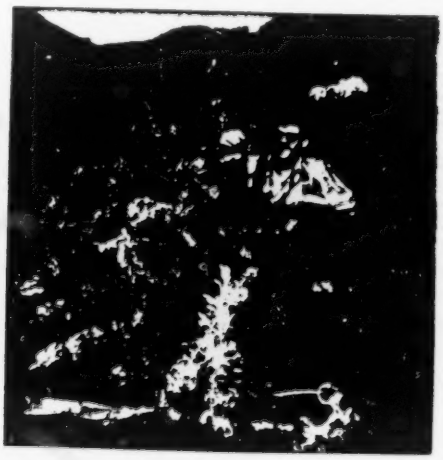
The second comment came up during the testimony of Mr Keys, Bureau of Reclamation regional director. You asked him if there was a regulatory system in place that would control timber harvest activities on the area that is effected by the large land movement down stream from the proposed dam site. Mr. Keys was not able to answer the question, so I will offer this information to you. The State of Washington has forest practice regulations in place which address timber

harvesting on State and private lands. These regulations require that special attention be paid to proposed activity where soil stability is in question. If the lands in this land slide area were under the jurisdiction of the US Forest Service, an intensive review of all environmental impacts would take place before timber harvest could begin.

Please understand that I do not oppose the Cabin Creek project. I do however, want you to understand that the owners of the forest land in the Cabin Creek drainage are making a major commitment to productive forest management and that the land is currently fully utilized for this purpose. It has a significant value for long term timber production and this value should be taken into consideration in any cost benefit analysis of the project.

Thank you for your attention. I am sending a copy of this letter to Mr. Morrison and Mr. Keys.

Sincerely yours,

Peter Heide

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